H.R. 15187. A bill to establish a Commission on Population Growth and the American Future; to the Committee on Government Operations.

By Mr. SAYLOR (for himself and Mr. OBEY):

H.R. 15188. A bill to amend the Fish and Wildlife Act of 1956 to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; to the Committee on Merchant Marine and Fisheries.

By Mr. WHALEN (for himself, Mr. ASHLEY, Mr. BINGHAM, Mr. BOLAND, Mr. BURTON of California, Mr. CONYERS, Mr. DIGGS, Mr. EDWARDS of California, Mr. LEGGETT, Mr. LOWENSTEIN, Mr. MIKVA, Mr. MOSHER, Mr. MOSS, Mr. OTTINGER, Mr. PUCINSKI, Mr. REES, Mr. ROSENTHAL, Mr. ST GERMAIN, Mr. SCHEUER, Mr. STAFFORD, Mr. STOKES, Mr. TAFT, Mr. CHARLES H. WILSON, and Mr. YATES):

H.R. 15189. A bill to amend title 10, United States Code, in order to improve the judicial machinery of military courts-martial by removing defense counsel and jury selection from the control of a military commander who convenes a court-martial and by creating an independent trial command for the purpose of preventing command influence or the appearance of commad influece from adversely affecting the fairness of military judicial proceedings; to the Committee on Armed Services.

By Mr. CHARLES H. WILSON:

H.R. 15190. A bill to amend title 39, United States Code, to restrict the mailing of unsolicited credit cards; to the Committee on Post Office and Civil Service.

By Mr. DAWSON (for himself, Mr. GARMATZ, Mr. MOSS, Mr. FASCELL, Mr. REUSS, Mr. MONAGAN, Mr. MOORHEAD, Mr. WRIGHT, and Mr. HICKS):

H.R. 15191. A bill to establish a Commission on Population Growth and the American Future; to the Committee on Government Operations.

By Mr. MILLER of Ohio:

H.R. 15192. A bill to amend the Clean Air Act to authorize appropriations to carry out such act through fiscal year 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. WINN:

H.R. 15193. A bill to establish the Interagency Committee on Mexican-American Affairs, and for other purposes; to the Committee on Government Operations.

By Mr. JACOBS:

H.J. Res. 1029. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. MOSS:

H.J. Res. 1030. Joint resolution to repeal legislation relating to the use of the Armed Forces of the United States in certain areas outside the United States and to express the sense of the Congress on certain matters relating to the war in Vietnam, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CHARLES H. WILSON:

H.J. Res. 1031. Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women; to the Committee on the Judiciary.

By Mr. CHAPPELL:

H. Con. Res. 466. Concurrent resolution expressing the sense of the Congress with respect to the elimination of the Castro-Communist regime in Cuba; to the Committee on Foreign Affairs.

By Mr. DADDARIO:

H. Con. Res. 467. Concurrent resolution terminating the joint resolution of August 10, 1964, relating to the maintenance of international peace and security in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GILBERT introduced a bill (H.R. 15194) for the relief of Nicola Augelletta, his wife, Ida Augelletta, and their children Rosa Augelletta, Maria Carmela Augelletta, and Susanna Augelletta, which was referred to the Committee on the Judiciary.

SENATE—*Wednesday, December 10, 1969*

(Legislative day of Tuesday, December 9, 1969)

The Senate met at 9 o'clock a.m., on the expiration of the recess, and was called to order by Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota.

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

O Lord, who hast promised that "they that wait upon the Lord shall renew their strength," come upon Thy servants here with renewing power. When the days are long, the labor strenuous, and the hours tedious, spare them from giving up or giving in until the best has been accomplished for all the people. Strengthen them in weakness, fortify them in fatigue, help them to surmount discouragement, and give them the assurance that underneath are the everlasting arms. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 10, 1969.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. QUENTIN N. BURDICK, a Senator from the State of North Dakota, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Tuesday, December 9, 1969, be approved.

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

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the Executive Calendar, beginning with "New Reports."

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated, as requested by the Senator from Montana.

U.S. CIRCUIT COURT

The assistant legislative clerk read the nomination of Henry L. Brooks, of Kentucky, to be U.S. circuit judge for the sixth circuit.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. DISTRICT JUDGES

The assistant legislative clerk proceeded to read sundry nominations of U.S. district judges.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

DEPARTMENT OF JUSTICE

The assistant legislative clerk read the nomination of Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida, and Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

LAW ENFORCEMENT ASSISTANCE

The assistant legislative clerk read the nomination of Clarence M. Coster, of Minnesota, to be an Associate Administrator of Law Enforcement Assistance.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

U.S. PATENT OFFICE

The assistant legislative clerk read the nomination of John Henry Schneider, of

Virginia, to be an Assistant Commissioner of Patents.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

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

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

NEWS REPORTS REGARDING NOMINATION OF U.S. AMBASSADOR TO GREECE

Mr. MANSFIELD. Mr. President, I note in the press that our distinguished colleague, the Senator from Rhode Island (Mr. PELL), has been accused of holding up the nomination of the U.S. Ambassador to Greece. May I say that there is not an iota of truth in that statement. The truth is the exact contrary so far as the disinguished Senator from Rhode Island (Mr. PELL) is concerned. The record should be straight.

LEGISLATIVE SESSION

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on National Security and International Operations of the Committee on Government Operations, the Committee on Rules and Administration, the Committee on Labor and Public Welfare, the Committee on the District of Columbia, and the Committee on Commerce be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT TO 9 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 o'clock tomorrow morning.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR—SERVICES OF PAGES

Mr. MANSFIELD. Mr. President, it has been called to the attention of the joint leadership that so many staff personnel are on the floor during the debate that 30 to 50 percent of the time of the pages is taken up in calling staff people to the telephone and carrying out other responsibilities which are not within the scope of their responsibility. The pages are here primarily to serve Senators. I would hope that the Chair from now on would make absolutely certain that persons other than official attachés of the Senate are kept to an absolute minimum. Furthermore, if telephone calls are to be made, staff members will make them and not use pages for that purpose. I would like the Chair to see to it that that particular suggestion is carried into effect from now on.

The PRESIDING OFFICER The Chair has heard the request of the Senator from Montana, and the suggestion will be carried out.

STATE, JUSTICE, COMMERCE, AND THE JUDICIARY APPROPRIATION BILL, 1970—CONFERENCE REPORT

Mr. McCLELLAN. Mr. President, I submit a 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. I ask unanimous consent for the present consideration of the report.

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

The legislative clerk read the report.

(For conference report, see House proceedings of Dec. 8, 1969, pp. 37705–37706, CONGRESSIONAL RECORD.)

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

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

Mr. McCLELLAN. Mr. President, I urge that the conference report be agreed to.

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

The report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment of the House to the amendment of the Senate numbered 21.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 21 to the aforesaid bill, and concur therein with an amendment, as follows:

Restore the matter stricken, amended to read as follows:

"SEC. 404. None of the funds contained in this title shall be available for the salaries or expenses of deputy clerks in any office that has discontinued the taking of applications for passports subsequent to October 31, 1968 and has not resumed such service on a permanent basis."

Mr. McCLELLAN. Mr. President, I move that the Senate concur in the amendment of the House to the amendment of the Senate numbered 21.

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

The motion was agreed to.

Mr. McCLELLAN. Mr. President, I shall make only a few brief remarks. The total appropriation allowed is $2,354,432,700. This sum is $121,271,900 below the total budget estimates, and $18,798,500 over the House allowance.

Mr. President, let me add that the main reason it is over the House allowance is that we increased the law enforcement funds under title I of the Omnibus Crime Control Act of last year by $18 million over the House, raising it to $268 million.

Another item of $15.9 million which we restored to the bill, and which was deleted on the floor of the House as unauthorized at that time, accounts for the conference bill exceeding the amount of the House bill.

These two items, less changes agreed to by the conferees in other items, brought it up to an amount in excess of the $18 million I have mentioned.

It is $27,922,000 below the sum recommended by the Senate. In my judgment it is a fairly good bill. Some of the amounts provided were not entirely to my satisfaction, however, in the main the bill will provide funds that are considered sufficient to meet necessary expenses of the departments, the judiciary, and related agencies included in the bill for fiscal 1970. As Members know, the expenses of the various activities have been under the continuing resolution of Congress for the past 5 months and will be until such time as the pending bill becomes law.

Major changes of Senate recommendations that were either reduced or denied in conference are the following:

For the Department of State, mutual educational and cultural exchange program, the sum allowed is $31,425,000, instead of $32,925,000 recommended by the Senate. The limitation on use of excess foreign currencies was set at not less than $6,000,000 instead of $8,500,000 provided by the House and as contained in the 1969 bill.

The Senate recommendation of $1,500,000 for flood construction on the lower Rio Grande was denied in conference.

For the Department of Justice, law enforcement assistance program, the conference agreed to $268,000,000 instead of $250,000,000 proposed by the House and $275,500,000 proposed by the Senate. This allowance will provide $21 million for planning grants; $215 million for action grants; $18 million for academic assistance; $8.5 million for the National Institute; $1.2 million for technical assistance, and $4.3 million for general administration.

For the Department of Commerce, economic development facilities, the conference agreed to $174,500,000 instead of $170,000,000 recommended by the House and $178,231,000 proposed by the Senate. And in the operations and administration program of EDA, the conference agreed to $19.5 million, instead of $19 million proposed by the House and $19,829,000 recommended by the Senate.

The conference disapproved the Senate recommendation of $350,000 for expenses incident to demolition of the New York World's Fair pavilion.

For the Environmental Science Services Administration, salaries and expenses appropriation, the conference agreed to $121,350,000 instead of $121,000,000 recommended by the House and $121,700,000 proposed by the Senate.

Of the increase over the House allowance, $100,000 was provided for aviation weather forecasts, and $250,000 for air pollution forecasts and for additional basic communications network.

The Conference agreed to the $15,918,000 proposed by the Senate for ship construction and indicated in the report that the conferees would be receptive to a realistic substantial request in a supplemental budget at an early date for additional funds for "ship construction." For the Health, Education, and Welfare, civil rights educational activities, the conference agreed to $14 million instead of $12 million proposed by the House, and $20 million proposed by the Senate. For the Equal Employment Opportunity Commission, the conference approved $12,500,000 instead of $11,500,000 allowed by the House and $15,905,000 recommended by the Senate.

For the Foreign Claims Settlement Commission, the conference approved $650,000, instead of $450,000 recommended by the House and $781,000 proposed by the Senate.

For the Special Representative for Trade Negotiations, the conference agreed to the House recommendation of $482,000 instead of the Senate proposal of $559,000.

For the U.S. Information Agency, salaries and expenses, the conference agreed to $160,750,000, instead of $160,000,000 proposed by the House and $161,500,000 recommended by the Senate.

Mr. President, I submit a summary of the bill and ask unanimous consent that it be printed in the RECORD.

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

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND THE BUDGET ESTIS FOR 1970MATE

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—FEDERAL FUNDS

[Becomes available automatically under earlier, or "permanent" law w thout further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority 1969	Budget estimate of new (obligational) authority, 1970	Increase (+) or decrease (—)
(1)	(2)	(3)	(4)
DEPARTMENT OF STATE			
Educational exchange fund	$354,000	$353,000	—$1,000
International center, Washington, D.C.		1,020,000	+1,020,000
Payment to the Republic of Panama	1,930,000	1,930,000	
Total, Department of State	2,284,000	3,303,000	+1,019,000
DEPARTMENT OF COMMERCE			
Maritime Administration:			
Operating differential subsidies	229,244,000	213,600,000	—15,644,000
State marine schools	1,365,000	1,415,000	+50,000
Total, Department of Commerce	230,609,000	215,015,000	—15,594,000
SMALL BUSINESS ADMINISTRATION			
Payment of participation sales insufficiencies	8,801,000	8,783,000	—18,000
Grand total, permanent new budget (obligational) authority, Federal funds	241,694,000	227,101,000	—14,593,000

Note.—Some items are indefinite in amount, and thus are subject to reestimation.

PERMANENT NEW BUDGET (OBLIGATIONAL) AUTHORITY—TRUST FUNDS

[Becomes available automatically under earlier, or "permanent" law without further, or annual, action by the Congress. Thus, these amounts are not included in the accompanying bill]

Agency and item	New budget (obligational) authority 1969	Budget estimate of new (obligational) authority, 1970	Increase (+) or decrease (—)
(1)	(2)	(3)	(4)
DEPARTMENT OF STATE			
Administration of foreign affairs:			
Foreign Service retirement and disability fund	$22,539,000	$15,055,000	—$7,484,000
Miscellaneous permanent appropriations	206,000	206,000	
Total	22,745,000	15,261,000	—7,484,000
International organizations and conferences: Gifts and bequests, National Commission on Educational, Scientific, and Cultural Cooperation	3,000	3,000	
Educational exchange: Educational exchange trust funds	310,000	310,000	
Total, Department of State	23,058,000	15,574,000	—7,484,000
DEPARTMENT OF COMMERCE			
General administration:			
Gifts and bequests	52,000	52,000	
Special statistical work	1,000	1,000	
Total, general admin stration	53,000	53,000	
Office of Business Economics: Special statistical work	25,000	25,000	
Bureau of the Census: Special statistical work	3,461,000	3,240,000	—221,000
Economic Development Administration: Regional action planning commissions	6,776,000	7,087,000	+311,000
Business and Defense Services Administration: Special statistical work	8,000	8,000	
International activities: Contributions, educational and cultural exchange	1,486,000	1,809,000	+323,000
Environmental Science Services Administration: Special statistical work	175,000	180,000	+5,000
National Bureau of Standards: Clearinghouse for technical information	3,000,000	3,250,000	+250,000
Total, Department of Commerce	14,984,000	15,652,000	+668,000
THE JUDICIARY			
Judicial survivors' annuity fund	1,100,000	1,140,000	+40,000
RELATED AGENCIES			
American Battle Monuments Commission: Contributions	6,000	7,000	+1,000
U.S. Information Agency: U.S. Information Agency trust funds	24,000	34,000	+10,000
Total, related agencies	30,000	41,000	+11,000
Grand total, permanent new budget (obligational) authority, trust funds	39,172,000	32,407,000	—6,765,000

Note.—Some items are indefinite in amount, and thus are subject to reestimation.

ADMINISTRATIVE EXPENSES OF GOVERNMENT CORPORATIONS

[Limitation on amounts of corporate funds to be expended]

Agency and item	New budget (obligational) authority, fiscal year 1969 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1970	New budget (obligational) authority recommended in House bill	Amount recommended by Senate committee	Increase (+) or decrease (−), Senate bill compared with— Appropriations, 1969	Budget estimates, 1970	House bill
(1)		(2)	(3)	(4)	(5)	(6)	(7)	(8)
DEPARTMENT OF JUSTICE							
Federal Prison Industries, Incorporated	($3,237,000)	($3,849,000)	($3,667,000)	($3,667,000)	(+$430,000)	(−$182,000)	

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1970

TITLE I—DEPARTMENT OF STATE

[Note—All amounts are in the form of "appropriations" unless otherwise indicated]

Agency and item	New budget (obligational) authority, fiscal year 1969 (enacted to date)	Budget estimates of new (obligational) authority fiscal year 1970[1]	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
ADMINISTRATION OF FOREIGN AFFAIRS					
Salaries and expenses	$207,095,600	$207,422,000	$207,095,600	$207,095,600	$207,095,600
Representation allowances	993,000	993,000	993,000	993,000	993,000
Acquisition, operation, and maintenance of buildings abroad	12,500,000	13,100,000	13,100,000	13,100,000	13,100,000
Acquisition, operation, and maintenance of buildings abroad (special foreign currency program)	3,050,000	2,186,000	2,186,000	2,186,000	2,186,000
Emergencies in the diplomatic and consular service	1,600,000	1,600,000	1,600,000	1,600,000	1,600,000
Total, administration of foreign affairs	225,238,600	225,301,000	224,974,600	224,974,600	224,974,600
INTERNATIONAL ORGANIZATIONS AND CONFERENCES					
Contributions to international organizations	118,453,000	130,187,000	130,187,000	130,187,000	130,187,000
Missions to international organizations	3,953,000	4,000,000	3,980,000	3,980,000	3,980,000
International conferences and contingencies	1,800,000	1,845,000	1,800,000	1,800,000	1,800,000
World Health Assembly	500,000				
Total, international organizations and conferences	124,706,000	136,032,000	135,967,000	135,967,000	135,967,000
INTERNATIONAL COMMISSIONS					
International Boundary and Water Commission, United States and Mexico:					
Salaries and expenses	923,000	920,000	900,000	900,000	900,000
Operation and maintenance	2,029,000	2,320,000	2,300,000	2,300,000	2,300,000
Construction	5,806,000	400,000	400,000	1,900,000	400,000
American sections, international commissions	629,000	593,000	561,000	593,000	561,000
International fisheries commissions	2,075,000	2,155,000	2,335,000	2,354,000	2,344,500
Total, international commissions	11,462,000	6,388,000	6,496,000	8,047,500	6,505,500
EDUCATIONAL EXCHANGE					
Mutual educational and cultural exchange activities	31,425,000	35,400,000	31,425,000	32,925,000	31,425,000
Center for cultural and technical interchange between East and West	5,260,000	5,260,000	5,260,000	5,260,000	5,260,000
Total, educational exchange	36,685,000	40,660,000	36,685,000	38,185,000	36,685,000
Total, title I, Department of State	398,091,600	408,381,000	404,122,600	407,174,100	404,132,100
TITLE II—DEPARTMENT OF JUSTICE					
LEGAL ACTIVITIES AND GENERAL ADMINISTRATION					
Salaries and expenses, general administration	$6,583,000	$8,413,000	$7,500,000	$7,500,000	$7,500,000
Salaries and expenses, general legal activities	24,975,000	28,919,000	28,000,000	28,000,000	28,000,000
Salaries and expenses, Antitrust Division	8,352,000	8,992,000	8,992,000	8,992,000	8,992,000
Salaries and expenses, U.S. attorneys and marshals	42,381,000	49,668,000	48,038,000	48,038,000	48,038,000
Fees and expenses of witnesses	4,200,000	5,500,000	5,000,000	5,000,000	5,000,000
Salaries and expenses, Community Relations Service	2,273,000	3,755,000	3,077,000	3,077,000	3,077,000
Total, legal activities and general administration	88,764,000	105,247,000	100,607,000	100,607,000	100,607,000
FEDERAL BUREAU OF INVESTIGATION					
Salaries and expenses	219,670,000	232,855,000	232,855,000	232,855,000	232,855,000
IMMIGRATION AND NATURALIZATION SERVICE					
Salaries and expenses	89,726,000	94,000,000	93,750,000	93,750,000	93,750,000
FEDERAL PRISON SYSTEM					
Salaries and expenses, Bureau of Prisons	62,048,000	77,077,000	74,179,000	74,540,000	74,300,000
By transfer	(5,659,000)				
Buildings and facilities		6,440,000	5,440,000	5,440,000	5,440,000
By transfer	(4,650,000)				
Support of U.S. prisoners	7,400,000	8,470,000	7,900,000	7,900,000	7,900,000
Total, Federal prison system	69,448,000	91,987,000	87,519,000	87,880,000	87,640,000
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION					
Salaries and expenses	59,407,000	296,570,000	250,000,000	275,500,000	268,000,000
BUREAU OF NARCOTICS AND DANGEROUS DRUGS					
Salaries and expenses	18,567,000	25,317,000	25,317,000	25,317,000	25,317,000
Total, title II, Department of Justice	545,382,000	845,976,000	790,048,000	815,909,000	808,169,000

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1970—Continued

TITLE III—DEPARTMENT OF COMMERCE

[Note—All amounts are in the form of "appropriations" unless otherwise indicated]

Agency and item	New budget (obligational) authority, fiscal year 1969 (enacted to date)	Budget estimates of new (obligational) authority fiscal year 1970 [1]	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
GENERAL ADMINISTRATION					
Salaries and expenses	$5,168,000	$5,750,000	$5,316,000	$5,316,000	$5,316,000
OFFICE OF BUSINESS ECONOMICS					
Salaries and expenses	3,075,000	3,320,000	3,162,000	3,162,000	3,162,000
BUREAU OF THE CENSUS					
Salaries and expenses	18,145,000	18,727,000	18,500,000	18,500,000	18,500,000
Nineteenth decennial census	17,000,000	147,854,000	137,850,000	137,850,000	137,850,000
1967 economic censuses	7,085,000	3,487,000	3,487,000	3,487,000	3,487,000
1972 census of governments		200,000	200,000	200,000	200,000
1967 census of governments	347,000				
Total, Bureau of the Census	42,577,000	170,268,000	160,037,000	160,037,000	160,037,000
ECONOMIC DEVELOPMENT ASSISTANCE					
Development facilities	180,000,000	178,231,000	170,000,000	178,231,000	174,500,000
Industrial development loans and guarantees	50,000,000	50,000,000	50,000,000	50,000,000	50,000,000
Planning, technical assistance and research	25,000,000	29,880,000	27,000,000	27,000,000	27,000,000
Operations and administration	19,590,000	20,489,000	19,000,000	19,829,000	19,500,000
Total economic development assistance	274,590,000	278,600,000	266,000,000	275,060,000	271,000,000
BUSINESS AND DEFENSE SERVICES ADMINISTRATION					
Salaries and expenses	6,308,000	6,629,000	6,418,000	6,418,000	6,418,000
INTERNATIONAL ACTIVITIES					
Salaries and expenses	15,200,000	23,332,000	19,000,000	20,366,000	19,000,000
Salaries and expenses (special foreign currency program)	200,000	200,000	200,000	200,000	200,000
Export control	5,494,000	5,358,000	5,358,000	5,358,000	5,358,000
Total, international activities	20,894,000	28,890,000	24,558,000	25,924,000	24,558,000
OFFICE OF FIELD SERVICES					
Salaries and expenses	5,042,000	5,160,000	5,160,000	5,160,000	5,160,000
PARTICIPATION IN U.S. EXHIBITIONS					
Participation in New York World's Fair		350,000		350,000	
FOREIGN DIRECT INVESTMENT CONTROL					
Salaries and expenses	3,673,000	4,175,000	3,000,000	3,000,000	3,000,000
MINORITY BUSINESS ENTERPRISE					
Salaries and expenses		1,500,000	1,200,000	1,200,000	1,200,000
U.S. TRAVEL SERVICE					
Salaries and expenses	4,500,000	6,000,000	4,500,000	4,500,000	4,500,000
ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION					
Salaries and expenses	118,254,000	124,246,000	121,000,000	121,700,000	121,350,000
Research and development	24,614,000	25,505,000	24,000,000	24,685,000	24,300,000
Research and development (special foreign currency program)	500,000				
Facilities, equipment, and construction	3,200,000	5,151,000	4,385,000	4,385,000	4,385,000
Satellite operations	20,000,000	6,957,000	6,957,000	6,957,000	6,957,000
Total, Environmental Sciences Services Administration	166,568,000	161,859,000	156,342,000	157,727,000	156,992,000
PATENT OFFICE					
Salaries and expenses	43,240,000	46,110,000	44,500,000	44,500,000	44,500,000
NATIONAL BUREAU OF STANDARDS					
Research and technical services	36,100,000	38,700,000	37,000,000	37,100,000	37,000,000
Research and technical services (special foreign currency program)	500,000	500,000	500,000	500,000	500,000
Plant and facilities	1,300,000	(2)	(2)	(2)	(2)
Total, National Bureau of Standards	37,900,000	39,200,000	37,500,000	37,600,000	37,500,000
OFFICE OF STATE TECHNICAL SERVICES					
Grants and expenses	5,300,000	290,000	290,000	290,000	290,000
MARITIME ADMINISTRATION					
Ship construction	119,590,000	15,918,000		15,918,000	15,918,000
Operating-differential subsidies (appropriation to liquidate contract authorization)	(206,000,000)	(194,400,000)	(194,400,000)	(194,400,000)	(194,400,000)
Research and development	6,700,000	7,700,000	11,100,000	11,100,000	11,100,000
Salaries and expenses	16,536,000	23,978,000	20,578,000	20,578,000	20,578,000
Maritime training	5,277,000	6,164,000	6,164,000	6,164,000	6,164,000
State marine schools	625,000	625,000	625,000	625,000	625,000
(Appropriation to liquidate contract authorization)	(1,485,000)	(1,415,000)	(1,415,000)	(1,415,000)	(1,415,000)
Total, Maritime Administration	148,728,000	54,385,000	38,467,000	54,385,000	54,385,000
Total, title III, Department of Commerce	767,563,000	812,486,000	756,450,000	784,629,000	778,018,000

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1970—Continued

TITLE IV—THE JUDICIARY

[Note—All amounts are in the form of "appropriations" unless otherwise indicated]

Agency and item	New budget (obligational) authority, fiscal year 1969 (enacted to date)	Budget estimates of new (obligational) authority fiscal year 1970 [1]	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
SUPREME COURT OF THE UNITED STATES					
Salaries	$2,230,000	$2,610,000	$2,535,000	$2,535,000	$2,535,000
Printing and binding Supreme Court reports	182,000	195,000	195,000	195,000	195,000
Miscellaneous expenses	140,000	170,000	164,000	164,000	164,000
Care of the building and grounds	361,400	388,300	388,300	388,300	388,300
Automobile for the Chief Justice	9,500	9,900	9,900	9,900	9,900
Books for the Supreme Court	40,000	40,000	40,000	40,000	40,000
Total, Supreme Court of the United States	2,962,900	3,413,200	3,332,200	3,332,200	3,332,200
COURT OF CUSTOMS AND PATENT APPEALS					
Salaries and expenses	521,000	577,000	577,000	577,000	577,000
CUSTOMS COURT					
Salaries and expenses	1,713,000	2,070,000	1,870,000	1,870,000	1,870,000
COURT OF CLAIMS					
Salaries and expenses	1,659,000	1,872,000	1,872,000	1,872,000	1,872,500
COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES					
Salaries of judges	18,743,000	22,765,000	22,765,000	22,765,000	22,765,000
Salaries of supporting personnel	45,912,000	49,445,000	47,957,000	47,957,000	47,957,000
Fees and expenses of court-appointed counsel	4,000,000	3,150,000	3,150,000	3,150,000	3,150,000
Fees of jurors and commissioners	11,900,000	15,800,000	15,000,000	15,000,000	15,000,000
Travel and miscellaneous expenses	6,850,000	7,533,000	7,000,000	7,000,000	7,000,000
Administrative Office of the U.S. Courts	1,944,000	2,267,400	2,050,000	2,050,000	2,050,000
Salaries of referees (special fund)	4,992,000	6,311,000	6,203,000	6,203,000	6,203,000
Expenses of referees (special fund)	8,448,000	8,926,000	8,650,000	8,650,000	8,650,000
Total, courts of appeals, district courts, and other judicial services	102,789,000	116,217,400	112,775,000	112,775,000	112,775,000
FEDERAL JUDICIAL CENTER					
Salaries and expenses	300,000	875,000	600,000	600,000	600,000
Total, title IV, the Judiciary	109,944,900	125,024,600	121,026,200	121,026,200	121,026,200
TITLE V—RELATED AGENCIES					
AMERICAN BATTLE MONUMENTS COMMISSION					
Salaries and expenses	2,362,000	2,639,000	2,639,000	2,639,000	2,639,000
ARMS CONTROL AND DISARMAMENT AGENCY					
Arms control and disarmament activities	9,000,000	9,500,000	9,500,000	9,500,000	9,500,000
COMMISSION ON CIVIL RIGHTS					
Salaries and expenses	2,650,000	2,650,000	2,650,000	2,650,000	2,650,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE					
Office of Education: Civil rights education	10,817,000	20,000,000	12,000,000	20,000,000	14,000,000
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION					
Salaries and expenses	9,120,000	15,905,000	11,500,000	15,905,000	12,500,000
FEDERAL MARITIME COMMISSION					
Salaries and expenses	3,743,000	3,715,000	3,715,000	3,715,000	3,715,000
FOREIGN CLAIMS SETTLEMENT COMMISSION					
Salaries and expenses	791,000	781,000	450,000	781,000	650,000
NATIONAL COMMISSION ON FIRE PREVENTION AND CONTROL					
Salaries and expenses		500,000			
NATIONAL COMMISSION ON REFORM OF FEDERAL CRIMINAL LAWS					
Salaries and expenses	250,000	300,000	250,000	300,000	300,000
SMALL BUSINESS ADMINISTRATION					
Salaries and expenses	11,400,000	17,000,000	16,500,000	16,500,000	16,500,000
(Transfer from revolving funds)	(47,647,000)	(50,111,000)	(50,000,000)	(50,000,000)	(50,000,000)
Payment of participation sales insufficiencies	2,014,000	1,757,000	1,757,000	1,757,000	1,757,000
Business Loan and Investment Fund		25,000,000	25,000,000		
Total, Small Business Administration	13,414,000	43,757,000	43,257,000	18,257,000	18,257,000
SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS					
Salaries and expenses	482,000	625,000	482,000	559,000	482,000
SUBVERSIVE ACTIVITIES CONTROL BOARD					
Salaries and expenses	344,400	365,000	344,400	344,400	344,400
TARIFF COMMISSION					
Salaries and expenses	3,850,000	3,950,000	3,900,000	3,900,000	3,900,000
U.S. INFORMATION AGENCY					
Salaries and expenses	163,490,000	164,000,000	160,000,000	161,500,000	160,750,000
Salaries and expenses (special foreign currency program)	9,250,000	10,800,000	10,800,000	10,800,000	10,800,000
Special international exhibitions	3,500,000	2,850,000	2,500,000	2,766,000	2,600,000
Special international exhibitions (special foreign currency program)	428,000				
Total, U.S. Information Agency	176,668,000	177,650,000	173,300,000	175,066,000	174,150,000

Footnotes at end of table.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY FOR 1969 AND BUDGET ESTIMATES AND AMOUNTS RECOMMENDED IN THE BILL FOR 1970—Continued

TITLE V—RELATED AGENCIES—Continued

[Note—All amounts are in the form of "appropriations" unless otherwise indicated]

Agency and item	New budget (obligational) authority, fiscal year 1969 (enacted to date)	Budget estimates of new (obligational) authority, fiscal year 1970 [1]	New budget (obligational) authority recommended in House bill	Senate bill	Conference action
(1)	(2)	(3)	(4)	(5)	(6)
UNITED STATES-MEXICO COMMISSION FOR BORDER DEVELOPMENT AND FRIENDSHIP					
Salaries and expenses		$1,500,000			
Total, title V, related agencies	$233,491,400	283,837,000	$263,987,400	$253,616,400	$243,087,400
Total, titles I, II, III, IV, and V, new budget (obligational) authority—appropriations	2,054,672,900	2,475,704,600	2,335,634,200	2,382,354,700	2,354,432,700
Memorandums:					
Appropriations to liquidate contract authorizations	(207,485,000)	(195,815,000)	(195,815,000)	(195,815,000)	(195,815,000)
Total appropriations, including appropriations to liquidate contract authorizations	(2,262,157,900)	(2,671,519,600)	(2,531,449,200)	(2,578,169,700)	(2,550,247,700)

[1] Reflects amendments contained in H. Docs. 91-85, 91-98, 91-100, and 91-113. [2] Language.

LIMITATION OF STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a morning hour until 9:30 o'clock a.m. and that statements in relation to the transaction of routine morning business be limited to 3 minutes.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Director, Bureau of the Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior for "Education and welfare services," Bureau of Indian Affairs, for the fiscal year 1970, had been apportioned on a basis which indicates a need for a supplemental estimate of appropriations; to the Committee on Appropriations.

REPORT ON EXPORT-IMPORT BANK LOANS IN CONNECTION WITH EXPORTS TO YUGOSLAVIA

A letter from the Secretary, Export-Import Bank of the United States, Washington, D.C., reporting, pursuant to law, that the amount of Export-Import Bank loans, insurance, and guarantees issued in October 1969, in connection with U.S. exports to Yugoslavia total $89,297; to the Committee on Appropriations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on examination of financial statements of the Student Loan Insurance Fund, fiscal year 1968, Office of Education, Department of Health, Education, and Welfare, dated December 10, 1969 (with an accompanying report); to the Committee on Government Operations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRAVEL, from the Committee on Interior and Insular Affairs, without amendment:

S. 778. A bill to amend the 1964 amendments to the Alaska Omnibus Act (Rept. No. 91-595).

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

H.R. 4244. An act to raise the ceiling on appropriations of the Administrative Conference of the United States (Rept. No. 91-596).

By Mr. MANSFIELD (for Mr. FULBRIGHT), from the Committee on Foreign Relations, with an amendment:

H.R. 14580. An act to promote the foreign policy, security, and general welfare of the United States by assisting peoples of the world to achieve economic development within a framework of democratic economic, social, and political institutions, and for other purposes (Rept. No. 91-603).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without amendment:

S. Res. 283. Resolution authorizing the printing of additional copies of "The Migratory Farm Labor Problem in the United States" (Senate Report Numbered 91-83); (Rept. No. 91-598);

H. Con. Res. 345. Concurrent resolution providing for printing as a House document "A Guide to Student Assistance" (Rept. No. 91-601); and

H. Con. Res. 407. Concurrent resolution to authorize the printing as a House document the pamphlet entitled "Our Flag" (Rept. No. 91-602).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, without additional amendment:

S. Res. 279. Resolution authorizing expenditures by the Select Committee on Nutrition and Human Needs for an additional period to study the food, medical, and other related basic needs among the people of the United States (Rept. No. 91-597).

By Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 47. Concurrent resolution authorizing the printing of the report of the proceedings of the 44th biennial meeting of the Convention of American Instructors of the Deaf as a Senate document (Rept. No. 91-599).

EXECUTIVE REPORTS OF COMMITTEES

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

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

Charles D. Loos, of Indiana, to be U.S. marshal for the southern district of Indiana; and

Emmett E. Shelby, of Florida, to be U.S. marshal for the northern district of Florida.

By Mr. TYDINGS, from the Committee on the District of Columbia:

Graham W. Watt, of Ohio, to be Assistant to the Commissioner of the District of Columbia.

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services I report favorably the nominations of six flag and general officers in the Army, Navy, and Air Force. I ask that these names be placed on the executive calendar.

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

The nominations, ordered to be placed on the executive calendar, are as follows:

Brig. Gen. Joseph G. May, Army National Guard of the United States, and Brig. Gen. LaClair A. Melhouse, Army National Guard of the United States, to be majors general of the Army;

Rear Adm. Evan P. Aurand, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving; and

Lt. Gen. Arthur C. Agan (major general, Regular Air Force), U.S. Air Force; Lt. Gen. Benjamin O. Davis, Jr. (major general, Regular Air Force), U.S. Air Force; and Lt. Gen. Robert J. Friedman (major general, Regular Air Force), U.S. Air Force, to be placed on the retired list in the grade of lieutenants general.

Mr. STENNIS. Mr. President, in addition to the above I report favorably 125 appointments in the Army in the grade of major and below, 3,107 appointments and promotions in the Navy in the grade of captain and below, 93 appointments in the Air Force in the grade of major and below, and 802 appointments in the Marine Corps in the grade of lieutenant colonel and below. Since these names have already been printed in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Jackie L. Slaughter, for reappointment to the active list of the Regular Air Force, in the grade of captain;

Robert E. Booth, and Frederick G. Tolman, for appointment in the Regular Air Force;

William E. Wymer, and sundry other persons, for appointment in the Regular Air Force;

Thaddeus J. Andreski, and sundry other distinguished graduates of the Air Force Officer Training School, for appointment in the Regular Air Force;

Kevin E. Booth, and sundry other distinguished graduates of the Air Force Reserve Officer Training Corps, for appointment in the Regular Air Force;

George E. Balyeat, and sundry other officers, for promotion in the United States Navy;

Barbara J. Lee, and sundry other women officers, for appointment in the Marine Corps;

James A. Albright, and sundry other staff noncommissioned officers, for appointment to the grade of second lieutenant in the Marine Corps;

Walter A. Divers, Jr., and Kerry L. O'Hara, for appointment in the Regular Army;

Carl C. Busdiecker, and sundry other persons, for appointment in the Regular Army of the United States;

Cmdr. Charles Conrad, Jr.; Cmdr. Richard F. Gordon, Jr.; and Cmdr. Alan L. Bean, for promotion in the Navy;

Lt. Cmdr. Donald W. Stauffer, U.S. Navy, for appointment to the grade of commander while serving as leader of the U.S. Navy Band;

James Robert Abbey, and sundry other officers, for promotion in the U.S. Navy; and

John E. Ailes, and sundry other officers, for promotion in the Marine Corps.

BILLS INTRODUCED

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

By Mr. STEVENS:

S. 3224. A bill to confer veterans benefits upon persons who perform six years of creditable service in the Alaska National Guard; to the Committee on Labor and Public Welfare.

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

By Mr. EASTLAND:

S. 3225. A bill to provide that the U.S. District Court for the western division of the Southern District of Mississippi shall be held at Natchez;

S. 3226. A bill for the relief of Mrs. Bronson Clayton; and

S. 3227. A bill to allow the settlement of claims of military personnel and civilian employees of military departments for offbase property lost or damaged as a result of Hurricane Camille; to the Committee on the Judiciary

By Mr. MUSKIE:

S. 3228. A bill to provide for the balanced urban development and growth of the United States; to the Committee on Government Operations.

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

By Mr. MUSKIE (for himself, Mr. BAYH, Mr. EAGLETON, Mr. MONTOYA, Mr. RANDOLPH and Mr. SPONG):

S. 3229. A bill to amend the Clean Air Act in order to extend the authorizations for such Act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects; to the Committee on Public Works.

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

By Mr. TYDINGS (by request):

S. 3230. A bill to authorize the construction of a low diversion structure of dam on the Potomac River, Maryland; to the Committee on Public Works.

By Mr. SCOTT (for himself and Mr. PERCY):

S. 3231. A bill to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile; to the Committee on Armed Services.

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

By Mrs. SMITH of Maine (by request):

S. 3232. A bill to authorize the payment of annuities to certain widows of judges who remarry; to the Committee on the Judiciary.

By Mr. TYDINGS:

S. 3233. A bill for the relief of Luz Mercedes Celi; to the Committee on the Judiciary.

By Mr. NELSON:

S. 3234. A bill to amend the Fish and Wildlife Act of 1956, to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft; to the Committee on Commerce.

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

By Mr. ERVIN:

S. 3235. A bill for the relief of P. J. Leake; to the Committee on the Judiciary.

S. 3224—INTRODUCTION OF A BILL RELATING TO RESERVISTS IN THE TERRITORIAL OR NATIONAL GUARD OF ALASKA

Mr. STEVENS. Mr. President, I want to speak today concerning legislation which is of great importance to Alaskans who have served as reservists in the territorial or National Guard. I introduce a bill to confer veterans benefits upon persons who perform 6 years of creditable service in the Alaska National Guard and ask that it be printed and appropriately referred.

This bill provides that members of either the territorial or National Guard who have completed 6 years of Reserve service be accorded the same benefits as those who have served 2 years of active duty in the Armed Forces.

Guard units in Alaska, particularly the Eskimo Guard of remote northern and western Alaska, are designated for the defense of the State and are, in a sense, on active duty all the time.

During World War II Lt. Col. Marvin—Muktuk—Marston, retired, organized territorial guard units throughout western Alaska. Even though the "tundra army" companies were not federalized at that time, Marston built them into a local defense system in a period when Japanese invasion was a danger and then a reality. Following the Dutch Harbor bombing in the Aleutians in 1942, the Japanese began to make coastal defenses and to develop submarine bases on another Aleutian island. They were undoubtedly totally familiar with every village in Alaska. The guard units had thousands of miles of coastline to patrol.

These troops proved so efficient during the war that Marston succeeded in having them included in the Alaska National Guard system as "scout battalions."

These and other Alaskan men who have loyally patrolled and guarded the tremendous expanse of Alaska during territorial and statehood days for 6 years deserve the same status as those men who have served 2 years of active duty.

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

The bill (S. 3224) to confer veterans benefits upon persons who perform 6 years of creditable service in the Alaska National Guard, introduced by Mr. STEVENS, was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

S. 3228—INTRODUCTION OF BALANCED URBANIZATION POLICY AND PLANNING ACT

Mr. MUSKIE. Mr. President, I introduce, for appropriate reference, a bill entitled the "Balanced Urbanization Policy and Planning Act." I ask unanimous consent that the text, and a section-by-section analysis of the bill be printed in the RECORD following these remarks. The bill was prepared by the Advisory Commission on Intergovernmental Relations, of which I am privileged to be a member. I am introducing the bill at the request of the Advisory Commission for purposes of discussion and further study.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD, as requested by the Senator from Maine.

The bill (S. 3228) to provide for the balanced urban development and growth of the United States, introduced by Mr. MUSKIE, was received, read twice by its title, referred to the Committee on Government Operations, and ordered to be printed in the RECORD.

(See exhibits 1 and 2.)

Mr. MUSKIE. In one respect, this bill serves as a followup to title IV of the "Intergovernmental Cooperation Act of 1968"—Public Law 90-577—which deals with coordinated intergovernmental policy and administration of development assistance programs. More directly, it addresses the problem of urban growth documented in the report of the Advisory Commission on Intergovernmental Relations on "Urban and Rural America: Policies for Future Growth" and in the survey of "The New City" by the National Committee on Urban Growth Policy.

These two studies record the fact that the present pattern of urbanization is compounding the problems of our metropolitan areas. It is widening the gap between rural and urban America. It is exacerbating racial tensions. The prospective addition of 115 million new Americans to our population between now and the year 2000 plus the forecast that practically all of them will be urban residents accentuates the need to grapple now with the dynamics of the urbanization process.

Let me cite a few of the basic trends that underscore the need for an overall national urbanization policy.

First, the largest metropolitan areas have experienced the most rapid growth in recent years and will continue to do so if present trends persist.

Second, within these areas, however, the most rapid growth has been in the suburban and surrounding areas in which industry is more frequently locating.

Third, with the heavy increase in the black population of our central cities during the past two decades, 56 percent of this sector of our citizenry now reside in these large municipalities, in contrast to only 25 percent of the white population. The bulk of Black America today are either rural or core city citizens, while the bulk of white Americans are suburbanites.

Fourth, the Nation's smallest cities and villages outside of our metropolitan areas are growing at a much slower rate and are far more frequently bypassed by the mainsteam of national economic growth.

Fifth, in terms of employment, governmental services, and public finance, the great central cities as well as the smaller rural communities and counties share the increasingly more difficult task of maintaining a healthy level of economic activity and of providing jobs and adequate education for their residents.

Sixth, both the large central cities and rural jurisdictions with declining populations encounter a more costly task of providing public and private services.

Seventh, a continuation of the present pattern or urban growth in suburban areas foreshadows an extension of sprawl, and disorderly and wasteful use of land.

Finally, Federal efforts to facilitate coordinated and planned development are not enhanced by the separate planning requirements that now exist in more than 135 Federal grant-in-aid programs and by the 37 planning assistance programs now authorized by the Congress.

These findings prompt me to pose the question: Can we begin to fashion the instrumentalities and procedures which will facilitate the development of a sound, sensible, and consistent urbanization policy? As I see it, continuation of muddling through must be rejected, for that is what has brought us to where we are now. At the same time, the development of a meaningful urbanization policy faces numerous hurdles. Yet, if we continue to ignore the need for such a policy, we must also ignore the consequences of the existing urbanization process.

In very human terms, that means ignoring the concentration of more and more people in large urban centers.

It means overlooking higher costs of public and private consumption in these areas.

It means being willing to risk the heavy social and psychic toll that living in heavily crowded areas presents.

It means the probable addition of even more fuel to already incendiary conditions in the ghettos.

It means widening the gap between the declining economies of core cities and the expanding ones of their suburban neighborhoods.

It means a further widening of the economic, educational, health, and opportunity gaps between rural and urban America.

In short, a policy of more of the same means a continuation of these and other distorted, out-of-balance trends.

Mr. President, after weighing all these factors, I am convinced there is a clear need for a national policy for guiding the location and character of future urban growth. Given the nature of this undertaking, such a policy must involve the Federal, State, and local governments in collaboration with the private sector.

It must deal simultaneously with the problem of central cities in metropolitan areas, while planning for a more balanced geographic distribution of our future urban population.

It must lead to the development of machinery and processes within these governments for coordinating existing policies which affect urban growth and for developing new ones to guide future urbanization.

In terms of direction, it must involve a strategy which gives consideration to the declining economic base of our cities as well as to eroding of our rural economies.

Such a policy must also focus on both the form and quality of urban growth and come to grips with the enormous task of building and rebuilding which will occur during the final third of the century in order to accommodate the 115 million Americans which will be added to our population.

The Balanced Urbanization Policy and Planning Act is intended to initiate a process at the national level for hammering out a balanced urbanization policy. It is also designed to establish a complementary program of comprehensive planning assistance and requirements.

Title I states the purposes of the bill, and proposes definitions used within the measure. Responsibility for coordination and policy guidance is fixed in the Executive office.

Title II of the proposed legislation assigns planning, programing, and coordinating responsibilities in the urban growth area to the Executive Office of the President. The President is required to submit annually to Congress an urban growth report. The report would include data highlighting basic urbanization trends, a summary of key problems arising from those trends, an assessment of Federal progress in meeting these problems, and a review of related State and local policies as well as those of the private sector. The report would conclude with Presidential proposals relating to ways and means of achieving more orderly and balanced urban development. Funds are authorized for the Executive officer to carry out its responsibilities under this title and a new Joint Urbanization Committee of the Congress is established to serve as a major focal point of legislative analysis of the President's report.

Title III revamps the 701 comprehensive planning assistance program and seeks to develop an intergovernmental system of planning and coordination that buttresses the development of a national urbanization policy. Among the more innovative features of this title are the following:

Comprehensive planning assistance is confined generally to general purpose units of government, and one set of areawide multijurisdictional agencies within a State is used—unless no overall State assistance program is established;

Comprehensive planning must be consistent with that of the next larger jurisdiction—which complements the intent of title IV of the Intergovernmental Cooperation Act of 1968;

Functional plans must be consistent with comprehensive planning and not inconsistent with the functional plans of the next larger jurisdiction;

Responsibility is placed upon the States if they choose to take up the challenge laid down by this title, but direct Federal-local action is permitted to localities and areawide jurisdictions if this responsibility is rejected;

An attempt is made to place the allocation of funds on a formula basis, rather than on a statewide distributive basis of project-by-project; and finally,

Immediate responsibility for administering the program is assigned to the Department of Housing and Urban Development, but operating within broad guidelines to be established by the Executive Office of the President.

Title IV is designed to deal with the lack of uniformity and clear definition of the numerous planning requirements found in Federal grant-in-aid programs, and with the failure, in many instances, to identify the jurisdiction responsible for planning. In an attempt to bring some order out of the confusion in this planning requirement, title IV codifies and makes uniform the definition of comprehensive planning and standardizes the functional planning conformance requirements in five program areas—water, sewer, and other public works facilities; public health services; transportation; open space and recreation; and water resources.

Mr. President, the pressures confronting our cities and many of our rural areas are inextricably linked. The issues facing us on both fronts must be joined. Long-range solutions must encompass a grand design for fostering a pattern of urban growth that will be balanced—geographically, economically, socially, and environmentally.

This legislation is intended to initiate a policy process and a planning program that will begin to hammer out the components of a national policy on urban growth. Without such a policy, we will remain shackled to the past and will bind ourselves to the nightmarish prospect of a metropolitan urban future and further decline in rural America.

S. 3228

A bill to provide for the balanced urban development and growth of the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Balanced Urbanization Policy and Planning Act".

TITLE I—GENERAL PROVISIONS

DECLARATION OF PURPOSE

SEC. 101. The purpose of this Act is to establish within the United States Government procedures—

(1) for analyzing urban growth and developing a national urbanization policy and reporting to the Congress on such growth and policy;

(2) to provide greater coordination in the administration of Federal urban and economic development grants and programs by

placing within the Executive Office of the President sole responsibility for policy development, coordination, and planning;

(3) to provide assistance to State and local governments for developing comprehensive coordination, programing, and planning agencies and activities;

(4) to consolidate comprehensive planning requirements for grant-in-aid programs; and

(5) to systematize other planning requirements.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "Secretary" means the Secretary of Housing and Urban Development;

(2) "comprehensive planning" means planning which—

(A) consists of the continuing process of assessing needs, resources, and development opportunities; formulating goals, objectives, policies, and standards to guide long-range physical, economic, and human resources development; and preparing plans and programs for such assessment and formulation;

(B) is not inconsistent with comprehensive planning undertaken by any other Federal or State governmental body and, when undertaken by a political subdivision, also is not inconsistent with comprehensive planning by the next larger jurisdiction; and

(C) meets criteria established by the Secretary; and includes—

(i) preparation of comprehensive plans, as guides for governmental policies and action, which identify and evaluate alternative courses of action and the relationships among the activities to be carried out under such plans, including the effective utilization of resources, the pattern and intensity of land use, and the provision of public facilities, and other government services;

(ii) programing of expenditures of major activities, including capital improvements, in the order in which they are to be commenced, together with definite plans for financing such activities;

(iii) coordination of all related plans and activities of the State and political subdivisions and agencies concerned;

(iv) provisions for a general guide for functional and project or agency program planning; and

(v) preparation of appropriate regulatory and administrative measures in support of the foregoing.

(3) "functional planning" means the preparation of a functional plan which—

(A) provides coordination of services, activities, and facilities, furnished by a State or political subdivision within the same functional area, including housing, public works, water and sewage facilities, transportation, recreation, open space, public health services and facilities, and pollution control; and

(B) is consistent with comprehensive planning;

(4) "State" means any of the several States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "State comprehensive planning agency" means a State agency, or agencies, designated by the Governor of the State (or in the case of the District of Columbia, designated by the Commissioner), to conduct overall comprehensive planning for the State;

(6) "political subdivision" or "unit of general local government" means any ctiy, county, town, parish, village, or other general-purpose political subdivision of a State;

(7) "planning and development district" means any area that—

(A) is established under State laws, or in the absence of such laws, under a plan approved by the Governor of the State or States;

(B) is composed of one or more counties or two or more other political subdivisions of a State;

(C) has common or related problems of development requiring cooperative, comprehensive planning and concerted action for the effective solution of such development problems; and

(D) is composed only of political subdivisions and interstate compact areas now included within any other such district.

(8) "planning and development district agency" means the agency responsible for a planning and development district and which is, to the greatest extent feasible, composed of or responsible to the elected officials of a unit of areawide government or of the political subdivisions located partially or completely within the planning and development district;

(9) "areawide comprehensive planning" means comprehensive planning undertaken by a planning and development district agency;

(10) "metropolitan comprehensive planning" means areawide comprehensive planning undertaken by a planning and development district agency which includes within its borders a standard metropolitan statistical area as established by the Bureau of the Budget;

(11) "county comprehensive planning" means comprehensive planning undertaken by a county provided the county—

(A) has authority over planning, zoning, subdivision, and other land uses within the unincorporated area;

(B) coordinates its comprehensive planning program with those of the municipalities within the county; and

(C) is not included within the comprehensive planning of a State comprehensive planning agency or planning and development district agency; and

(12) "city comprehensive planning" means comprehensive planning undertaken by a city if the city—

(A) has authority over planning, zoning, subdivision, and other land uses and which authority extends beyond the boundaries of the city; and

(B) is not included within the comprehensive planning of a State comprehensive planning agency or planning and development district agency.

PRESIDENTIAL RESPONSIBILITY

SEC. 103. In order to assure that the comprehensive planning and coordination assistance authorized by title III of this Act and the comprehensive and functional planning requirements of title IV are consistent with the purposes of title II of this Act and section 401 of the Intergovernmental Cooperation Act of 1968 (80 Stat. 1098; Public Law 90-577), the President shall be responsible for continuing policy guidance and continuing review of the administration of this Act, and for promulgating general rules and regulations, which shall be as uniform as practicable to carry out the provisions of this Act and section 401 of the Intergovernmental Cooperation Act of 1968. Such rules and regulations shall provide for full consideration of the concurrent achievement of the objectives specified in the statutory provisions cited in this section, and, to the extent authorized by law, reasoned choices shall be made between such objectives when they conflict.

TITLE II—DEVELOPMENT OF A NATIONAL URBANIZATION POLICY

FINDINGS AND DECLARATION OF POLICY

SEC. 201. (a) The Congress finds that the rapid growth of urban population and expanding urban development in the United States, together with a decline in farm population, slower growth in rural areas, and migration to the cities has created an imbalance between the Nation's needs and resources, and that the economic and social development of the Nation and the achievement of satisfactory living standards depend upon the sound, orderly, and more balanced development of all areas of the Nation.

(b) The Congress further finds that Federal programs already have a significant effect upon the location of population, economic growth, and on the character of urban development; that the purposes of such programs frequently conflict, thereby subsidizing undesirable and costly patterns of urban development; and that a concerted effort is necessary to interrelate and coordinate existing and future programs within a system of planned development and established priorities in accordance with a national urbanization policy.

(c) In order to promote the general welfare and to provide full and wise application of the resources of the Federal Government in strengthening the economic and social health of both rural and urban areas and of the Nation as a whole, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibilities of State and local government and the private sector, to undertake the development of a national policy, to be known as the national urbanization policy, which shall incorporate social, economic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions at the national level which affect the pattern of urban growth and shall provide a framework for development of interstate, State, and local policy.

(d) The Congress further declares that the national urbanization policy should—

(1) favor patterns of urbanization and economic development which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources;

(2) foster the continued economic strength of all parts of the United States, including central cities, suburbs, smaller communities, and rural areas;

(3) reverse trends of migration and natural growth which create greater disparities among States, regions, and cities;

(4) treat comprehensively the problems of poverty and employment associated with urbanization and rural decline;

(5) develop means to alleviate present trends which accentuate racial conflict;

(6) define the basis for fulfilling the role of the Federal Government in revitalizing existing communities and encouraging carefully planned, large-scale urban and new community development;

(7) assist general governmental institutions in achieving balanced urban growth; and

(8) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of urban growth.

URBANIZATION POLICY, PLANNING, AND COORDINATION

SEC. 202. In order to develop the national urbanization policy, the following functions shall be performed within the Executive Office of the President—

(1) the preparation of an annual report, to be known as the Annual Report on Urban Growth;

(2) the collection, analysis, and evaluation of timely and authoritative information, current and prospective, concerning population growth and movement, urbanization, economic growth, patterns of land use, natural resource conservation and development;

(3) a continuing assessment of the progress and effectiveness of Federal efforts to carry out the policy described in section 201 (c) and (d) and developed pursuant to this Act, with particular emphasis upon the manner in which efforts involving economic development, health, education and training, the location and pace of population growth, resettlement and rehabilitation, housing and

large-scale urban development, and vocational and employment opportunities relate to and affect the pattern and quality of urban growth;

(4) a review and estimate of current and foreseeable needs of interstate, State, local and private plans, and programs affecting the policy described in section 201 (c) and (d) and developed pursuant to this Act;

(5) an evaluation of the relationship of Federal programs and policies to the plans, policies, and programs referred to in clause (4); and

(6) an estimate of current and foreseeable needs for Federal programs which affect the plans, policies, and programs referred to in clause (4).

URBAN GROWTH REPORT

SEC. 203 (a) The President shall transmit to the Congress, not later than February 20 of each year, the Annual Report on Urban Growth for the preceding year. The Report shall include—

(1) information and statistics describing characteristics of urban growth and identifying significant trends and developments;

(2) a summary of significant problems facing the United States as a result of urbanization trends and developments;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to carry out the policy described in section 201 (c) and (d) and developed pursuant to this Act;

(4) a reassessment of the policies and structure of existing and proposed interstate planning and developments, including interstate agencies, affecting such policy;

(5) a review of State, local, and private policies, plans, and programs designed to carry out such policy;

(6) current and foreseeable needs in the areas served by such policies, plans, and programs, and the steps being taken to meet such needs; and

(7) recommendations for programs and policies for carrying out such policy, including such legislation as may be deemed necessary and desirable.

(b) The President may transmit from time to time to the Congress supplementary reports on urban growth which shall include such supplementary and revised recommendations as may be appropriate.

(c) The Annual Report on Urban Growth and all supplementary reports shall, when transmitted to the Congress, be referred to the Committee on Government Operations of each House, the Committees on Banking and Currency of each House, the Joint Urbanization Committee, the Joint Economic Committee, and such other standing committees as the presiding officer of each House may designate.

AUTHORIZATION

SEC. 204. Not to exceed $500,000 per fiscal year for the fiscal year ending June 30, 1970, and for each fiscal year thereafter is hereby authorized to be appropriated to the Executive Office of the President for expenses necessary to carry out the purposes of sections 202 and 203.

JOINT URBANIZATION COMMITTEE

SEC. 205. (a) (1) There is established a joint congressional committee which shall be known as the Joint Urbanization Committee. The joint committee shall be composed of eight Members of the Senate appointed by the President of the Senate, three of whom shall be members of the minority party, and eight Members of the House of Representatives, three of whom shall be members of the minority party.

(2) The joint committee shall select a chairman and vice chairman from among its members.

(b) It shall be the function of the joint committee—

(1) to make a continuing study of the information and recommendations contained in the Annual Report on Urban Growth and supplementary reports on urban growth; and

(2) to study means of coordinating programs in order to further the national urbanization policy.

(c) The joint committee shall file a report with the Senate and House of Representatives of the Congress not later than April 20 of each year. The report shall contain the joint committee's findings and comments with respect to the recommendations made by the President in the Annual Report on Urban Growth. The joint committee may from time to time make such other reports and recommendations to the Senate and House of Representatives as it deems advisable.

(d) In carrying out its duties under this section, the joint committee or any duly authorized subcommittee thereof, is authorized to hold such hearings; to sit and act within or outside the United States at such times and places; to require by subpena or otherwise the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths; to take such testimony; to procure such printing and binding; and to make such expenditures as it deems advisable. The joint committee may make such rules respecting its organization and procedure as it deems necessary.

(e) Subpenas may be issued over the signature of the chairman of the committee or by any member designated by him or the committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194), shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(f) The joint committee is authorized to appoint and fix the compensation of such experts, consultants, and staff employees as it deems necessary and advisable.

(g) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(h) (1) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon vouchers signed by the chairman of the joint committee or by any member of the joint committee duly authorized by the chairman.

(2) Members of the joint committee, and its employees, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses provided an itemized statement of such expenses is attached to the voucher.

TITLE III—GRANTS FOR COMPREHENSIVE PLANNING AND COORDINATION

SHORT TITLE

SEC. 301. This title may be cited as the "Comprehensive Planning and Coordination Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 302. (a) The Congress finds and declares that—

(1) an effective national urbanization policy is directly dependent upon the cooperative action of the Federal, State, and local levels of government in developing a system of comprehensive planning and coordination in order to achieve a more balanced use of the physical, economic, and human resources of the Nation;

(2) development planning has tended to be too narrow, fragmented, and inadequately coordinated; that to be fully effective, such planning must be comprehensive, embracing the full spectrum of human, economic, and physical resource development and encompassing urban and rural growth and development; and that there is a vital need for the development of comprehensive planning and coordination agencies, processes, and systems that will provide the framework within which functional, project, and agency program planning can be related for fully coordinated development;

(3) urban growth and rural development needs may be coordinated most efficiently and economically at the State and local government level, based on the capability of State and local governments to develop comprehensive, policy-based planning processes which can serve as a guide for functional, project, and agency program planning and can provide a systematic basis for effective coordination of Federal, State, and local development programs; and that such planning and coordination, in order to be effective, requires a governmental organization and structure and accompanying powers and authority capable of implementing planning through effective decisions and for accomplishing coordination through meaningful management; and

(4) improved coordination of programs of Federal assistance administered by various departments and agencies can best be achieved at the Federal level through the Executive Office of the President which can provide an effective focal point for the formulation of consistent planning, policies, standards, and proceedures among such programs pursuant to section 202 of this Act and section 401 of the Intergovernmental Cooperation Act of 1968 (80 Stat. 1098; Public Law 90–577).

(b) It is the purpose of this title—

(1) to provide assistance for the development of comprehensive planning and coordination capabilities at the interstate, State, regional and local government levels;

(2) to encourage cooperation among local governments in solving mutual and areawide development problems by assisting them in developing or strengthening the comprehensive planning and coordination process;

(3) to foster intergovernmental cooperation in developing coordinated and concerted attacks on problems of national urban and rural development; and

(4) to establish a method for the exchange of development information among localities, the States, and the Federal Government, in order to assist development and implementation of the national urbanization policy described in section 201 (c) and (d), and to aid the States and their political subdivisions in the determination of their needs.

PLANNING AND COORDINATION GRANTS

SEC. 303. In order to carry out the purposes of section 302(b), the Secretary is authorized to make comprehensive planning grants in accordance with the provisions of this title—

(1) to collect systematically information concerning any public works, public capital improvements and capital acquisitions, and economic and human resources development programs, projects, and associated activities;

(2) to collect and analyze information related to—

(A) population characteristics, migrations, and densities;

(B) economic trends, location patterns, and projections;

(C) directions and extent of urban and rural growth and change;

(D) employment and unemployment trends and projections;

(E) social, educational, health, recreational, and cultural development trends and needs;

(F) governmental organization and financial resources available within the State and the political subdivisions thereof; and

(G) other information necessary to conduct comprehensive planning;

(3) to develop, use, and encourage common information and data bases for State, regional, and local comprehensive and functional planning;

(4) to establish arrangements for the exchange of planning information among State agencies, and among the various governments within each State and their agencies, including planning and development agencies and city comprehensive planning agencies; between such governments and agencies of neighboring States as appropriate; and with interstate compact agencies and regional commissions established pursuant to Federal law;

(5) to prepare and maintain a coordinated planning system and process including the formulation of long-range, comprehensive plans consistent with the national urbanization policy described in section 201 (c) and (d) and developed pursuant to this Act;

(6) to undertake studies, surveys, and other activities to facilitate the coordination of administration of similar and related programs;

(7) to provide technical assistance and training, and advice and consultation on comprehensive planning and coordination matters on an interagency, interprogram, and intergovernmental basis;

(8) to establish arrangements for the exchange of information with the Federal Government for use by the President in discharging his responsibilities under section 401 of the Intergovernmental Cooperation Act of 1968 and section 103 and title II of this Act; and

(9) to conduct such other related planning and coordination functions as may be approved by the Secretary.

ELIGIBLE AGENCIES

SEC. 304. The Secretary, pursuant to rules and regulations as provided in section 103, may make grants to—

(1) a State comprehensive planning agency to carry out the functions of section 303;

(2) a State agency, designated by the Governor, which has entered into an agreement with the Secretary in accordance with section 305(e) to provide assistance to planning and development district agencies, completely or partially within the State, and units of general local government, for carrying out the functions of section 303;

(3) a planning and development district agency, completely or partially within the State, in those States which have not entered into an agreement with the Secretary in accordance with section 305(e):

(A) for carrying out the functions of section 303; and

(B) to provide assistance to units of general local government, for carrying out the functions of section 303, when such district agency has entered into an agreement with the Secretary in accordance with section 305(f);

(4) the following local agencies, for carrying out the functions of section 303, in those States in which neither a State agency nor a planning and development district agency within which such local agencies have jurisdiction have entered into agreements with the Secretary in accordance with section 305 (e) or (f), respectively:

(A) a city or county comprehensive planning agency; and

(B) a government planning agency—

(i) for an area in which rapid urbanization has occurred or is expected to occur as the result of the establishment or rapid substantial expansion of a Federal installation; or

(ii) for an area in which rapid urbanization is expected to occur as the result of land developed, or to be developed, as a new community and approved under section 1004 of the National Housing Act or title IV of the Housing and Urban Development Act of 1968; or

(iii) for an area in which there has been a substantial reduction in employment opportunities as the result of the partial or complete closing of a Federal installation, or a decline in the volume of orders of the Federal Government for articles or materials produced or manufactured within such area;

(5) organizations of public officials eligible to receive grants pursuant to section 701(g) of the Housing Act of 1954, for carrying out the functions of section 303, when such organizations conduct comprehensive planning in parts of two or more States;

(6) the Appalachian Regional Development Commission to carry out the functions of section 303 for the area over which the Commission has jurisdiction;

(7) a regional commission established under the Public Works and Economic Development Act of 1965 to carry out the functions of section 303 for the area over which the commission has jurisdiction;

(8) a tribal planning council or other tribal body for comprehensive planning for an Indian reservation, as designated by the Secretary of the Interior; and

(9) political subdivisions which have suffered substantial damages as a result of a catastrophe which the President, pursuant to section 2(a) of the Act entitled "An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes," approved September 30, 1950, as amended (42 U.S.C. 1855(a)), has determined to be a major disaster.

PROPOSALS FOR GRANTS

SEC. 305. (a) An agency desiring to receive a grant shall submit to the Secretary a proposal in such form, at such times, and in accordance with such procedures as the Secretary may specify, indicating the comprehensive planning and, where relevant, the program of planning assistance that it will undertake, the period during which such activities will be conducted, and their estimated costs, and designating those functions enumerated under section 303 which qualify for Federal assistance pursuant to this title.

(b) From the sum allocated pursuant to section 310, the Secretary is authorized to make a grant to the agency whose proposal is approved of an amount not to exceed two-thirds of the estimated cost of the planning and, where relevant, the program of planning assistance, except that a grant may be made in an amount not to exceed three-fourths of such estimated cost to an agency referred to in section 304(4)(B)(iii).

(c) A grant to comprehensive planning shall be made to a planning and development district agency pursuant to this title only if the comprehensive planning of such agency is not inconsistent with the comprehensive planning of any interstate or State agency assisted by funds granted under this title.

(d) A grant shall be made to a unit of general local government only if its comprehensive planning is not inconsistent with or duplicative of the comprehensive planning of any interstate, State, or district agency assisted by funds granted under this title.

(e) In order to be eligible for a plant for a program of planning assistance, a State agency referred to in section 304(2) shall enter into an agreement with the Secretary to provide comprehensive planning assistance for eligible agencies specified in section 304(2). The agreement shall provide for the following:

(1) a designation by the Governor that the State agency shall have primary authority and responsibility for the development and administration of the local comprehensive planning assistance program;

(2) the relationship that will be maintained between and among local, areawide, and State comprehensive planning agencies, and the techniques that will be used to foster coordination and planning;

(3) specific policies, procedures, and priorities to assure that assistance will be made available to meet the needs of large cities and urban concentrations as well as smaller cities, rapidly urbanizing areas, outlying communities, rural regions, and federally impacted and depressed areas;

(4) the methods that will be used to relate comprehensive planning to functional planning within and among individual jurisdictions;

(5) a reasonable distribution of cost-sharing for the non-Federal portion of the planning conducted by the State, and eligible agencies specified in section 304(a), including staff assistance and cash payments;

(6) provisions for an adequate professional and trained staff for the designated State agency to assure a capability for offering technical training, educational assistance and consultants to eligible agencies specified in section 304(2);

(7) provisions for assistance to comprehensive planning agencies within the State to initiate surveys and to develop new program designs for acquiring basic data, information, survey results, and analysis; for establishing comprehensive planning and formulating implementing measures; for maintaining and updating plans and policies through comprehesive planning; and for meeting unusual or nonrecurring needs in existing programs;

(8) provisions that Federal funds made available for the purposes of this title shall increase, and not supplant, State or local funds available for such purposes; and

(9) provisions to establish such fiscal control and fund accounting procedures and administrative reports as may be necessary to assure proper disbursement of and accounting for funds received under this section.

(f) To be eligible for a grant for a program of planning assistance, a planning and development district agency referred to in section 304(3) shall enter into an agreement with the Secretary to provide comprehensive planning assistance for eligible agencies specified in section 304(3). The agreement shall include, to the maximum extent practicable, the same provisions as required by subsection (e) for an agreement with a State agency (except such provisions contained in clauses (1) and (5) of such subsection). The agreement with the district agency shall provide for a reasonable distribution of cost sharing for the non-Federal portion of assisted programs between the district and assisted eligible agencies specified in section 304(3).

(g) Planning assisted under this title shall, to the maximum extent feasible, cover entire areas having common or related development programs. The Secretary shall encourage cooperation in preparing and carrying out plans among all interested regions, States, political subdivisions, public agencies, and other parties in order to achieve coordinated development of entire areas. To the maximum extent feasible, pertinent plans, studies, information, and data already available for areas shall be utilized in order to avoid unnecessary repetition of effort and expense.

(h) Any grant made pursuant to this title shall be in addition to, and may be used jointly with, grants or other funds available for planning surveys, studies, and investigations under other federally assisted programs.

POWERS OF SECRETARY

SEC. 306. (a) In accordance with general rules and regulations promulgated by the

President pursuant to section 103 of this Act, the Secretary shall promulgate rules and regulations to administer the provisions of this title, including the terms and conditions under which grants authorized by this title may be made.

(b) In order to carry out the provisions of this title, the Secretary—

(1) is authorized to make advance progress, or other payments pursuant to any grant made under this title without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(2) is authorized to provide technical assistance to any State, local government, Indian tribal body, or any other eligible agency specified in section 304 undertaking comprehensive planning;

(3) is authorized, by contract or otherwise, to make studies and publish information on problems related to comprehensive planning;

(4) shall consult with other officials of the Federal Government responsible for the administration of Federal assistance programs to States, planning and development districts, political subdivisions, or other eligible agencies specified in section 304, in order to determine how such programs are affected by the provisions of this title;

(5) shall consult with the Secretary of Agriculture prior to approving any grant to be made pursuant to this Act to a planning and development district agency which does not include any portion of a metropolitan area; and

(6) shall consult with the Secretary of Commerce prior to approving any planning grant to a planning and development district which serves as an economic development district or includes any part of such a district as defined and designated under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121).

(c) The Secretary of Agriculture and the Secretary of Commerce, as appropriate, may provide technical assistance with or without reimbursement, in connection with the functions of such planning and development districts as may be assisted under this title.

INTERPROGRAM COORDINATION AND COMPREHENSIVE PLANNING SERVICE AGREEMENTS

SEC. 307. (a) In order to achieve a high level of interprogram coordination and to eliminate duplication of effort in the development of basic planning data and information, any State, regional or local governmental agency administering or receiving funds under any Federal assistance program may, notwithstanding any other provision of law, enter into agreements with comprehensive planning agencies for the provision of services thereby. Such agreements may provide for payments to a comprehensive planning agency (1) in support of comprehensive planning and coordination activities; (2) for planning review and advice, technical assistance, and consultation; (3) for the provision of basic and supporting planning and development information; and (4) for other similar services facilitating the efficient administration of such Federal assistance program.

(b) The head of any Federal department or agency administering a Federal assistance program under which an agreement is made as provided in subsection (a), may approve the expenditure of functioning planning funds granted under the program for payments to a comprehensive planning agency for services under the agreement under such conditions as he may deem necessary and desirable.

INTERSTATE COMPACTS

SEC. 308. The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in the comprehensive planning and development of interstate, metropolitan, or other development districts and to establish such agencies, joint or otherwise, as they may deem desirable for making effective such agreements and compacts.

APPROPRIATIONS AUTHORIZED

SEC. 309. For the purpose of making grants under this title, there are authorized to be appropriated not to exceed $75,000,000 for the fiscal year ending June 30, 1971; not to etxceed $100,000,000 for each of the fiscal years ending June 30, 1972, and June 30, 1973; and for each of the two succeeding fiscal years, such sums as may be necessary to carry out the purposes of this title. Any amount appropriated hereunder shall remain available until expended.

ALLOCATIONS TO STATES

SEC. 310. (a) Fifteen per centum of the amount appropriated pursuant to section 309 for each fiscal year shall be allocated by the Secretary among the States for State comprehensive planning. From such 15 per centum, each State shall be allocated $50,000 for each such year. From the remainder of such 15 per centum, each State shall receive an amount which bears the same ratio to such remainder as the population of each State bears to the population of all States.

(b) Sixty per centum of the amount appropriated pursuant to section 309 for each fiscal year shall be allocated by the Secretary among the States for comprehensive planning assistance to eligible agencies specified in subsections 304 (2) and (3). From such 60 per centum, each State shall be allocated $30,000 for each such year. From the remainder of the 60 per centum, each State shall receive an amount which bears the same ratio to the total remainder as the population of each State bears to the population of all States. If a State does not enter into an agreement pursuant to section 305 (e), each planning and development district agency within the State, which enters into an agreement pursuant to section 305(f), shall be allocated an amount which bears the same ratio to the total amount the State would be eligible for, if it had entered into an agreement, as the population of the planning and development district bears to the total population of the State.

(c) The remaining 25 per centum of the amount appropriated pursuant to section 309 for each fiscal year shall be expended, as the Secretary deems appropriate, as follows:

(i) for additional grants to eligible agencies referred to in section 304 to carry out the functions of section 303;

(ii) for research, technical assistance, publications, and demonstration projects conducted by the Secretary to advance the purposes of this title (which total expenditures shall not exceed 5 per centum of the amount appropriated for each fiscal year); and

(iii) for sums incurred by the Secretary in administering the provisions of this title.

(d) Any amount allocated to a State under subsection (a) or (b) and not used within such State may be reallocated by the Secretary and may be used for grants to any agencies referred to in section 304 except a State comprehensive planning agency.

(e) The population of a State, of all the States, and of any planning and development district shall be determined by the Secretary on the basis of the most recent satisfactory data available from the Bureau of the Census.

AMENDMENTS

SEC. 311. (a) Section 701 of the Housing Act of 1954 (40 U.S.C. 461) is amended as follows:

(1) Subsections (a)–(f) and (i)(4)–(6) are repealed.

(2) The first sentence of subsection (g) is amended to read as follows:

"(g) The Secretary is authorized to make grants to organizations composed of public officials representative of the political jurisdictions within the metropolitan area, region, or district for the purpose of assisting such organizations to undertake such activities, including implementation of metropolitan, regional, and district plans, as he finds necessary or desirable for the solution of the metropolitan, regional, or district problems in such areas, regions, or district."

(3) Subsection (h) is amended—

(A) by striking out the phrase "(h) In addition to the other grants authorized by this section, the Secretary" and inserting in lieu thereof "(h) The Secretary" and

(B) by striking out the last sentence and inserting in lieu thereof: "A grant under this subsection shall not exceed two-thirds of the cost of the survey for which it is made, and shall be made to the appropriate State, metropolitan, or regional planning agency, tribal planning council, regional commission established by the Appalachian Regional Development Act of 1965 or under the Public Works and Economic Development Act of 1965 for comprehensive planning for the regions established under such Acts, or local development districts certified under section 301 of the Appalachian Regional Development Act of 1965 for comprehensive planning or, if there is no such agency or entity which is qualified and willing to receive the grant and provide for its utilization in accordance with this subsection, directly to the city, other municipality, or county involved."

(4) Such section is further amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be appropriated for the purposes of this section not to exceed $1,000,000 for the fiscal year ending June 30, 1971, and not to exceed $1,000,000 for the fiscal year ending June 30, 1972. Any amount appropriated under this section shall be subject to terms and conditions prescribed by the Secretary. No portion of any grant made under this section shall be used for the preparation of plans for specific public works. The Secretary is authorized to make advance, or progress, or other payments pursuant to any grant made under this section, without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529)."

(5) The caption for such section is amended to read as follows: "ASSISTANCE FOR ORGANIZATIONS COMPOSED OF PUBLIC OFFICIALS AND FOR HISTORIC SURVEYS".

(b) Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 334) is amended by adding at the end thereof the following new sentence: "Such rules and regulations may identify the type of projects which may be exempted from coverage because of their relative lack of significance for State or areawide planning and development."

TITLE IV—UNIFORM PLANNING REQUIREMENTS FOR GRANT-IN-AID PROGRAMS

FINDINGS AND DECLARATION OF POLICY

SEC. 401. (a) (1) The Congress finds that the rapid increase in the number of Federal grant-in-aid programs has been accompanied by a comparable increase in planning requirements for such programs. These planning requirements lack uniformity, frequently fail to define clearly comprehensive or functional planning, or to identify the jurisdiction responsible for planning, and may result in a variety of overlapping and inconsistent activities related to the gathering and analysis of data.

(2) The Congress further finds that while sound, coordinated, and consistent comprehensive and functional planning is essential to the accomplishment of national objectives through grant-in-aid programs, the present overlapping and inconsistent requirements limit the accomplishment of this objective.

(3) The Congress further finds that Federal grants for comprehensive and functional planning should provide assistance for and encourage planning necessary to meet consistent and coordinated planning requirements in other Federal grant programs.

(b) It is the purpose of this title to eliminate inconsistent and overlapping grant requirements by standardizing the definitions of comprehensive planning and functional planning and to apply these definitions properly by providing a method of identifying planning jurisdictions and by establishing the basis for the development and use of common data and information bases.

USE OF COMMON PLANNING INFORMATION

SEC. 402. Federal agencies administering grant programs which require comprehensive or functional planning, or require conformity to existing planning as a condition in making the grants, shall require that such planning proceed from social, economic, demographic, and other base data, statistics, and projections that are common to or consistent with those being employed for planning related activities within the area. Such agencies shall assure that their data requirements for comprehensive and functional planning are common or consistent and shall assist in developing and expanding standard planning information bases.

COMPREHENSIVE AND FUNCTIONAL PLANNING REQUIREMENTS

SEC. 403. (a) Title II of the Demonstration Cities and Metropolitan Development Act of 1966 is amended as follows:

(1) Section 204(a)(1) (42 U.SC. 3334(a)(1)) is amended to read as follows:

"(1) to any State comprehensive planning agency or planning and development district agency, which is designated to perform metropolitan or regional planning for the area within which the assistance is to be used, and".

(2) Section 204(b)(1)(A) (42 U.S.C 3334(b)(1)(A)) is amended by striking out "areawide agency" and inserting in lieu thereof "State comprehensive planning agency or the planning and development district agency".

(3) Section 204(b)(2) (42 U.S.C. 3334(b)(2)) is amended by striking out "an appropriate areawide agency or instrumentality" and inserting in lieu thereof "the appropriate State comprehensive planning agency or planning and development district agency.".

(4) Section 208 (42 U.S.C. 3338) is amended—

(A) by striking out paragraphs (5) and (7); and

(B) by adding at the end thereof the following new paragraph:

"(11) The terms 'State comprehensive planning agency', 'planning and development district agency', 'areawide comprehensive planning', and 'comprehensive planning' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act".

(b) The Public Works and Economic Development Act of 1965 is amended as follows:

(1) The second sentence of section 301(a) (42 U.S.C. 3151(a)) is amended by inserting before the period at the end thereof a comma and the following: "except that on or after July 1, 1973, such assistance for comprehensive planning shall be made available only to a State comprehensive planning agency, a planning and development district agency, or a unit of general local government".

(2) Section 403(a)(1) (42 U.S.C. 3171(a)(1)) is amended—

(A) by striking out "and" at the end of clause (C);

(B) by striking out clause (D) and inserting in lieu thereof the following:

"(D) the proposed district has an overall district economic development program which is part of areawide comprehensive planning, includes adequate land use and transportation planning, and contains a specific program for district cooperation, self-help, and public investment and is approved by the State or States affected and by the Secretary; and"; and

(C) by adding at the end thereof the following new clause:

"(E) on or after July 1, 1973, the proposed district is a planning and development district;".

(3) Section 403(d) (42 U.S.C. 3171(d)) is amended by inserting before the period at the end thereof the following: "and which, on or after July 1, 1973, is a planning and development district".

(4) Section 706 (42 U.S.C. 3216) is amended by inserting before the period at the end thereof a comma and the following: "and the terms 'comprehensive planning', 'functional planning', 'areawide comprehensive planning', 'planning and development district agency', and 'unit of general local government' have the same meanings as given them in section 102 of the Balanced Urbanization and Planning Act.".

(c) The Housing Act of 1961 is amended as follows:

(1) Section 706(2) (42 U.S.C. 1500c–2) is amended to read as follows: "(2) is important to the development of the locality as provided for in comprehensive planning for the political subdivision within which the land is located.".

(2) The first sentence of section 709 (42 U.S.C. 1500d–1) is amended by striking out "the comprehensively planned development of the locality" and inserting in lieu thereof "comprehensive planning for the political subdivision within which the area, site, or structure is located".

(3) Section 710 (42 U.S.C. 1500e) is amended by adding at the end thereof the following new paragraph:

"(5) The terms 'comprehensive planning' and 'political subdivision' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(d) The National Housing Act is amended as follows:

(1) Section 1001 (12 U.S.C. 1749aa) is amended—

(A) by striking out "and" at the end of subsection (d);

(B) by striking out the period at the end of subsection (e) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new subsection:

"(f) the terms 'comprehensive planning', 'planning and development district agency', and 'unit of general local government' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(2) Section 1003(b)(3) (12 U.S.C. 1749cc(b)(3)) is amended to read as follows:

"(3) is consistent with comprehensive planning by the State, a planning and development district agency, or a unit of general local government for the area within which the land is located."

(e) The New Communities Act of 1968 is amended as follows:

(1) Section 404(4) (42 U.S.C. 3903(4)) is amended to read as follows:

"(4) the internal development plan is consistent with State or areawide comprehensive planning for the area in which the land is situated.".

(2) Section 415 (42 U.S.C. 3914) is amended by adding at the end thereof the following new subsection:

"(d) The terms 'State comprehensive planning' and 'areawide comprehensive planning' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(f) The Housing Act of 1949 is amended as follows:

(1) In the parenthetical matter in the last sentence of section 102(d) (42 U.S.C. 1452(d)), strike out "the general plan of the locality as a whole" and insert in lieu thereof "comprehensive planning by the unit of general local government for the area covered by the General Neighborhood Renewal Plan".

(2) The second sentence of section 103(d) (42 U.S.C. 1453(d)) is amended to read as follows: "Such programs shall conform, in the determination of the governing body of the locality, to comprehensive planning by the unit of general local government for the area covered by the community renewal program."

(3) Section 110 (42 U.S.C. 1460) is amended—

(A) by amending subsection (b)(1) to read as follows: "(1) shall conform to comprehensive planning by the unit of general local government for the urban renewal area and to the workable program referred to in section 101 hereof, and shall be consistent with definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and"; and

(B) adding at the end thereof the following new subsection:

"(1) 'Comprehensive planning' and 'unit of general local government' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(g) The Housing and Urban Development of 1965 is amended as follows:

(1) Section 703(c)(2) (42 U.S.C. 3103(c)(2)) is amended to read as follows: "(2) consistent with comprehensive planning by the unit of general local government and with public health, recreation, and other functional planning for the development of the community within which the facilities will be located, and".

(2) The first sentence of section 704(c) (42 U.S.C. 3104(c)) is amended to read as follows:

"(c) No grant shall be made under this section unless the Secretary determines that the land will be utilized for a public purpose within a reasonable period of time and that such utilization will contribute to economy, efficiency, and the development of the area as provided for in areawide comprehensive planning or comprehensive planning by units of general local government, and public works and facilities, public health, transportation, recreation, or other relevant functional planning."

(3) Section 706 (42 U.S.C. 3106) is amended by adding at the end thereof the following new subsection:

"(d) The terms 'comprehensive planning', 'areawide comprehensive planning', 'functional planning', and 'unit of general local government' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(h) The Housing Act of 1954 is amended as follows:

(1) Section 702(b)(2) (40 U.S.C. 462(b)(2)) is amended to read as follows: "(2) it conforms to comprehensive planning by the State, a planning and development district agency, or a unit of general local government, and to functional planning for official State, areawide, and local water, sewer and other public works or facilities, public health facilities, recreational facilities, and".

(2) Section 703 (40 U.S.C. 460) is amended—

(A) by striking out "and" before clause (4);

(B) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause: "(5) the terms 'com-

prehensive planning', 'planning and development district agency', 'unit of general local government', and 'functional planning' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

WATER, SEWER, AND OTHER PUBLIC WORKS AND FACILITIES—FUNCTIONAL AND COMPREHENSIVE PLANNING REQUIREMENT AMENDMENTS

SEC. 404. (a) Section 702(c)(2) of the Housing and Urban Development Act of 1965 (42 U.S.C. 3102(c)(2)) is amended to read as follows: "(2) consistent with official areawide water and sewer functional planning, meeting criteria established by the Secretary, for a unified or officially coordinated areawide water and sewer facilities system as part of areawide comprehensive planning for the development of the area, except that prior to October 1, 1969, grants for projects may, in the discretion of the Secretary, be made under this section when such planning for an areawide water and sewer facilities system is under active preparation, although not yet completed, if the facility or facilities for which assistance is sought can reasonably be expected to be included as essential to such planning, and there is urgent need for the facility or facilities;".

(b) The Housing Amendments of 1955 are amended as follows:

(1) Section 202(b) (42 U.S.C. 1492(b)) is amended by adding at the end thereof the following new paragraph:

"(5) No financial assistance shall be extended under clause (1) of subsection (a) of this section unless the project is consistent with functional planning for official areawide water and sewer and other public works and facilities."

(2) Section 206 (42 U.S.C. 1496) is amended by inserting before the period at the end thereof a comma and the following: "and the term 'functional planning' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(c) Section 306 of the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1926) is amended as follows:

(1) Subsection (a)(1) is amended by adding at the end thereof the following sentence: "No loans shall be made or insured under this paragraph unless the Secretary determines that the project is consistent with functional planning for official areawide and local open space, recreation, and water and sewer and other public works and facilities."

(2) Strike out all the matter of paragraph (3) of subsection (a) following "(iii)" and insert in lieu thereof the following: "is necessary for orderly community development consistent with official areawide water and sewer functional planning and not inconsistent with any planned development under areawide comprehensive planning or comprehensive planning undertaken by the unit of general local government within which the project is located and the Secretary shall establish regulations requiring the submission of all applications for financial assistance under this Act to the city or county government in which the proposed project is to be located for review and comment by such agency within a designated period of time.".

(3) Subsection (a)(4) is amended by adding at the end thereof the following new subparagraph:

"(C) The terms 'comprehensive planning', 'areawide comprehensive planning', 'functional planning', and 'unit of general local government' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(4) Subsection (a)(6) is amended to read as follows:

"(6) The Secretary may make grants aggregating not to exceed $15,000,000 in any fiscal year to public bodies or such agencies as the Secretary may determine having authority to conduct official areawide water and sewer functional planning for the development of water and sewer systems in rural areas which do not have funds available for immediate undertaking of such planning."

(5) Subsection (c) is amended by inserting immediately after the word "section" the following: "but complying with the planning requirements of subsection (a)(1) and (3)".

(d) The Public Works and Economic Development Act of 1965 is amended as follows:

(1) Subsection 101(a)(1)(C) (42 U.S.C. 3131(a)(1)(C)) is amended to read as follows:

"(C) the area for which a project is to be undertaken has an approved overall economic development program, as provided in section 202(b)(10) and such project is consistent with such program and with functional planning for official areawide and local water and sewer and other public works and facilities;".

(2) Section 201(a)(5) (42 U.S.C. 3141(a)(5)) is amended to read as follows:

"(5) such area has an approved overall development program as provided in section 202(b)(10) and the project for which financial assistance is sought is consistent with such program and with functional planning for official areawide and local water and sewer and other public works and facilities."

(3) Section 202(b)(10) (42 U.S.C. 3142(b)(10)) is amended to read as follows:

"(10) No such assistance shall be extended unless there shall be submitted to and approved by the Secretary an overall economic development program for the area which is part of an areawide comprehensive planning and a finding by the State, or any agency, instrumentality, or local political subdivision thereof, that the project for which financial assistance is sought is consistent with such program and, where applicable, with functional planning for official areawide and local open space, recreation, and water and sewer and other public works and facilities. On and after July 1, 1973, such finding shall be made only by the State comprehensive planning agency, a planning and development district agency, or a unit of general local government for the area within which the project is to be located. Nothing in this Act shall authorize financial assistance for any project prohibited by the laws of the State or political subdivision in which the project would be located, nor prevent the Secretary from requiring such periodic revisions of previously approved overall economic development programs as he may deem appropriate."

(e) The Federal Water Pollution Control Act is amended as follows:

(1) Section 8(b)(5) (33 U.S.C. 466e(b)(5)) is amended to read as follows: "(5) no grant shall be made for any project under this section unless such project is in conformity with the State water pollution control functional plan submitted pursuant to the provisions of section 7 and with official areawide water and sewer functional planning and has been certified by the appropriate State water pollution control agency as entitled to priority over other eligible projects on the basis of financial as well as water pollution control needs;".

(2) Section 8(f) (33 U.S.C. 466e(f)) is amended to read as follows:

"(f) Notwithstanding any other provisions of this section, the Secretary may increase the amount of a grant made under subsection (b) of this section by an additional 10 per centum of the amount of such grant for any project which has been certified to him by an official State planning agency or a planning and development district agency empowered under State or local laws or interstate compact to perform metropolitan comprehensive planning, as being in conformity with metropolitan comprehensive planning for a metropolitan area within which the assistance is to be used. The provisions of this subsection may be extended to any urban area, including those surrounding areas that form an economic and socially related region, taking into consideration such factors as present and future population trends and patterns of urban growth, location of transportation facilities and systems, and distribution of industrial, commercial, residential, governmental, institutional, and other activities, which in the opinion of the President lends itself as being appropriate for the purposes hereof for any projects certified by an official State planning agency or planning and development district agency as being in conformity with State or areawide comprehensive planning."

(3) Section 10(j) (33 U.S.C. 466g(j)) is amended—

(A) by striking out "the term" in the matter preceding paragraph (1); and

(B) by striking out "and" at the end of paragraph (1);

(C) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a comma and the word "and"; and

(D) by inserting at the end thereof the following: "(3) 'functional planning', 'functional plan', 'metropolitan comprehensive planning', 'State planning agency', and 'planning and development district agency' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

PUBLIC HEALTH SERVICES AND FACILITIES FUNCTIONAL PLANNING REQUIREMENT AMENDMENTS

SEC. 405. (a) The Public Health Service Act is amended as follows:

(1) Section 314(a)(1) (42 U.S.C. 246(a)(1)) is amended by striking out "comprehensive" wherever it appears and inserting in lieu thereof "coordinated".

(2) Section 314(a)(2) (42 U.S.C. 246(a)(2)) is amended by striking out all the matter preceding subparagraph (A) and inserting in lieu thereof the following:

"(2) In order to be approved for purposes of this subsection, a State functional plan for State public health services and facilities must—".

(3) The first sentence of section 314(b) (42 U.S.C. 246(b)) is amended by striking out "comprehensive regional, metropolitan area, or other local area plans for coordination of existing and planned health services" and inserting in lieu thereof the following: "functional planning to coordinate existing and planned regional, metropolitan area, or other local area public health services and facilities".

(4) The second sentence of section 314(d)(1) (42 U.S.C. 246(d)(1)) is amended by striking out "State plans for provision of public health services" and inserting in lieu thereof "functional plans for State public health services and facilities".

(5) All the matter preceding subparagraph (A) of 314(d)(2) (42 U.S.C. 246(d)(2)) is amended to read as follows:

"(2) In order to be approved under this subsection, a State public health services and facilities functional plan must—".

(6) Section 314(d)(2)(D) (42 U.S.C. 246(d)(2)(D)) is amended by inserting before the semicolon at the end thereof the following: "and not inconsistent with official functional planning for regional, metropolitan area, or other local area public health services and facilities".

(7 The second sentence of section 314(e) (42 U.S.C. 246(e)) is amended by inserting before the period at the end thereof the following: "and are in accordance with functional planning for regional, metropolitan areawide, and other local area public health services and facilities".

(8) Section 314(g)(4) (42 U.S.C. 246(g)(4)) is amended—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon and the word "and"; and and

(C) by adding at the end thereof the following new subparagraph:

"(C) The terms 'functional planning' and 'functional plan' have the same meanings as given them in s ection 102 of the Balanced Urbanization Policy and Planning Act".

(9) The first sentence of section 604(a) (42 U.S.C. 291d(a)) is amended to read as follows: "Any State desiring to participate in this part may submit a State public health services and facilities functional plan."

(10) Section 391 (42 U.S.C. 280b–1) is amended—

(A) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(B) by adding at the end thereof the following new paragraph:

"(5) the terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(11) Section 393(b) (42 U.S.C. 280b–3(b)) is amended—

(A) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon and the word "and"; and

(B) by inserting at the end thereof the following new paragraph:

"(4) the facility will be in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, and other local area public health services and facilities."

(12) Section 604(a)(4) (42 U.S.C. 291d (a)(4)) is amended by striking out "community, area, or regional plans" and inserting in lieu thereof "functional planning for regional, metropolitan area, or other local area public health services and facilities".

(13) Section 605(b)(3) (42 U.S.C. 291e (b)(3)) is amended to read as follows: "(3) that the application is in conformity with the State plan approved under section 604 and with functional planning for regional, metropolitan, or other local area public health services and facilities and contains an assurance that in the operation of the project there will be compliance with the applicable requirements of the regulations prescribed under section 603(e), and with State standards for operation and maintenance;".

(14) Section 625 (42 U.S.C. 291o) is amended by adding at the end thereof the following new subsection:

"(m) The terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(15) Section 702 (42 U.S.C. 292a) is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) the terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(16) Section 705(c) (42 U.S.C. 292(c)) is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) the facility for which assistance is sought is in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, and other local area public health and facilities.

(17) Section 721(c) (42 U.S.C. 293a(c)) is amended—

(A) by striking out "and" at the end of paragraph (5);

(B) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(7) the facility for which assistance is sought is in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, or other local public health services and facilities."

(18) Section 724 (42 U.S.C. 293d) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by inserting at the end thereof the following new paragraph:

"(6) the terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(19) Section 762(a) (42 U.S.C. 295a(a)) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by inserting at the end thereof the following new paragraph:

"(3) the facility for which assistance is sought is in conformity with the State public health services and faciliites functional plan and with functional planning for regional, metropolitan area, or other local public health services and facilities."

(20) Section 766 (42 U.S.C. 295e) is amended—

(A) by striking out the period at the end of paragraph (2) and inserting in lieu thereof a semicolon and the word "and"; and

(B) by adding at the end thereof the following new paragraph:

"(3) the terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(21) Section 791(b)(2) (42 U.S.C. 295h(b)-(2)) is amended—

(A) by striking out "and" at the end of clause (D);

(B) by striking out the period at the end of clause (E) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new clause:

"(F) the facility for which assistance is sought will be in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, and other local area public health services and facilities."

(22) Section 795 (42 U.S.C. 295h–4) is amended by adding at the end thereof the following new paragraph:

"(6) The terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balance Urbanization Policy and Planning Act."

(23) Section 807(c) (42 U.S.C. 296f(c)) is amended—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) provides that the facility will be in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, and other local area public health services and facilities."

(24) Section 843 (42 U.S.C. 298b) is amended by adding at the end thereof the following new subsection:

"(j) The terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(b) The Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 is amended as follows:

(1) Section 122 (42 U.S.C. 2662) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon and the word "and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) the facility will be in conformity with the State public health services and facilities functional plan and with functional planning for regional, metropolitan area, and other local area public health services and facilities."

(2) Section 134(a) (42 U.S.C. 2674(a)) is amended—

(A) by inserting in the first sentence between the words "State" and "plan" the following: "public health services and facilities functional"; and

(B) by striking out clause (A) of paragraph (4) and inserting in lieu thereof the following: "(A) which is based on a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to regulations prescribed under section 133) is in conformity with functional planning for regional, metropolitan area, and other local area public health services and facilities;"

(3) clause (C) in the next to the last sentence of section 135(a) (42 U.S.C. 2675 (a)) is amended by inserting immediately after "section 134" the following: "and with functional planning for regional, metropolitan area, and other local area public health services and facilities.".

(4) Section 142(a)(4) (42 U.S.C. 2678a(a)(4)) is amended to read as follows:

"(4) in case of an applicant which has in existence (A) a State public health services and facilities functional plan, including services for the mentally retarded, or (B) a State functional plan relating to the provision of services for the mentally retarded, the services to be provided by the facility are consistent with the plan and with relevant functional planning for the region, metropolitan area, and other area."

(5) Section 204(a) (42 U.S.C. 2684(a)) is amended—

(A) by inserting in the first sentence between the words "State" and "plan" the following: "public health services and facilities functional"; and

(B) by striking out paragraph (4)(A) and inserting in lieu thereof the following: "(A) which is based on a statewide inventory of existing facilities, a survey of need, and (except to the extent provided by or pursuant to regulations prescribed under section 203) functional planning for regional, metropolitan area, and other local area public health services;".

(6) Clause (C) in the next to last sentence of section 205(a) (42 U.S.C. 2685(a)) is amended by inserting immediately after "section 204" the following: "and with functional planning for regional, metropolitan area, and other local area public health services and facilities".

(7) Section 221(a)(5) (42 U.S.C. 2688a(a)(5)) is amended to read as follows:

"(5) the services to be provided by the center are included in the State public health services and facilities functional plan, in-

cluding mental health services, or in a State mental health functional plan submitted to the Public Health Service by the State mental health authority in accordance with title III of the Public Health Service Act and are not inconsistent with relevant functional planning for regional, metropolitan area, and other local area public health services and facilities."

(8) Section 401 (42 U.S.C. 2691) is amended by adding the following new subsection:

"(1) The terms 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

COMPREHENSIVE AND TRANSPORTATION FUNCTIONAL PLANNING REQUIREMENT AMENDMENTS

SEC. 406. (a) Section 101(a) of title 23, United States Code, is amended by adding at the end thereof the following new paragraph:

"The term 'functional planning' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(b) The last sentence of section 134 of title 23, United States Code, is amended by striking out "comprehensive transportation planning" and inserting in lieu thereof "coordinated transportation functional planning".

(c) Section 11(f) of the Federal-Aid Highway Act of 1965 (82 Stat. 820; Public Law 90-495) is amended by striking out "comprehensive transportation planning" and inserting in lieu thereof "coordinated transportation functional planning".

(d) The Urban Mass Transportation Act of 1964 is amended as follows:

(1) Section 3(c)(1) (49 U.S.C. 1602(c)(1)) is amended to read as follows: "(1) the Secretary finds that such assistance is essential to a program, proposed or under active preparation, which conforms or will conform to official areawide transportation functional planning for a unified or officially coordinated urban transportation system as a part of areawide comprehensive planning for the development of the urban area,".

(2) The first sentence of section (4a) 49 U.S.C. 1603(a)) is amended by striking out "for a unified or officially coordinated urban transportation system as a part of the comprehensively planned development of the urban area", and inserting in lieu thereof the following: "and which conforms to official areawide transportation functional planning for a unified or officially coordinated urban transportation system as a part of areawide comprehensive planning for the development of the urban area".

(3) Section 12(c) (49 U.S.C. 1608(c)) is amended—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(C) by adding at the end thereof the following new paragraph:

"(6) the terms 'comprehensive planning' and 'functional planning' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(e) Section 202(d)(1) (42 U.S.C. 1492(d)(1)) of the Housing Amendments of 1955 is amended to read as follows: "(1) that there is being actively developed (or has been developed) for the urban or other metropolitan area served by the applicant a program, meeting criteria established by him and conforming to official transportation functional planning for the area, for the development of a comprehensive and coordinated mass transportation system;".

(f) The Federal Airport Act is amended as follows:

(1) Section 2(a) (49 U.S.C. 1101(a)) is amended by adding at the end thereof the following new paragraph:

"(13) 'Functional planning' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(2) Section 9(a) (49 U.S.C. 1108(a)) is amended by adding at the end thereof the following new sentence: "No project may be inconsistent with State, areawide, or municipal transportation functional planning which is not in conflict with the national airport plan."

COMPREHENSIVE AND OPEN SPACE AND RECREATION FUNCTIONAL PLANNING REQUIREMENT AMENDMENTS

SEC. 407. (a) The Land and Water Conservation Fund Act of 1965 is amended as follows:

(1) Section 5(d) (16 U.S.C. 460 1-8(d)) is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "A coordinated, statewide, open space and outdoor recreational funcional plan shall be required prior to the consideration by the Secretary of financial assistance for acquisition or development projects and such acquisition or projects shall not be inconsistent with regional and local official open space and outdoor recreation functional planning,"; and

(B) by striking out all the matter following clause (4) and inserting in lieu thereof the following:

"The plan shall take into account relevant Federal resources and programs and shall be correlated so far as practicable with other State, regional and local comprehensive planning and official open space and outdoor recreation functional planning. Where there exists or is in preparation for any particular State a comprehensive plan prepared through comprehensive planning, financed in part with funds supplied by the Department of Housing and Urban Development, any statewide open space and outdoor recreation functional plan prepared for purposes of this Act shall be based upon the same population, growth, and other pertinent factors as used in formulating the Department of Housing and Urban Development financed plans.

"The Secretary may provide financial assistance to any State for projects for the preparation of a coordinated, statewide, open space and outdoor recreation functional plan when such plan is not otherwise available or for the maintenance of such plan.

"As used in this Act, the terms 'comprehensive planning', 'functional planning' and 'functional plan' have the same meanings as given them in section 102 of the Balanced Urbanization Policy and Planning Act."

(2) The second sentence in the third full paragraph of section 5(f) (16 U.S.C. 460 1-8 (f)) is amended by striking out "comprehensive statewide outdoor recreation plan" and inserting in lieu thereof "coordinated, statewide, open space and outdoor recreation functional plan."

(b) Section 7103(a) of the Housing Act of 1961 (42 U.S.C. 1500b(a)) is amended to read as follows:

"(a) The Secretary shall enter into contracts to make grants under sections 702 and 705 of this title only if he finds that such assistance is needed for carrying out a unified or officially coordinated program, meeting criteria established by him, and conforming to official areawide, open space and outdoor recreation functional planning for the provision of open space land as part of areawide comprehensive planning for the development of the urban area.".

(c) The Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926, as amended, is amended as follows:

(1) The second sentence of section 1(a) (43 U.S.C. 869(a)) is amended to read as follows: "Before the land may be disposed of under this Act, it must be shown to the satisfaction of the Secretary that the land is to be used for an established or definitely proposed project and that the project is not inconsistent with the open space and outdoor recreation functional plan for the State."

(2) Section 1 is amended by adding at the end thereof the following new subsection:

"(d) The term 'functional plan' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(d) Section 31 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1010) is amended by adding at the end thereof the following: "Any project undertaken under this authorization may not be inconsistent with State and areawide open space and outdoor recreation functional plans. The term 'functional plan' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(e) Section 7(a) of the Small Business Act (15 U.S.C. 636) is amended by adding at the end thereof the following new paragraph:

"(8) Any loan extended to a small business concern for recreational development may not be inconsistent with areawide and local open space and outdoor recreation functional planning. The term 'functional planning' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

WATER RESOURCES FUNCTIONAL PLANNING REQUIREMENT AMENDMENTS

SEC. 408. (a) The Watershed Protection and Flood Prevention Act is amended as follows:

(1) Section 2 (16 U.S.C. 1002) is amended by adding at the end thereof the following new paragraph:

" 'Functional Plan'—the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(2) Insert after section 4 the following new section:

"SEC. 4A. Any planning or installation of works of improvement undertaken may not be inconsistent with the State and areawide water resources functional plans, and where the planning or installation includes recreational development, may not be inconsistent with the State and areawide open space and outdoor recreation functional plans."

(b) Section 104 of the River and Harbor Act of 1958 (33 U.S.C. 610) is amended as follows:

(1) Immediately after the first sentence in subsection (a) insert the following new sentence: "No such control operation may be inconsistent with the State or areawide water resources functional plan."

(2) Add at the end thereof the following new subsection:

"(c) The term 'functional plan' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(c) The Act entitled "An Act authorizing Federal participation in the cost of protecting the shores of publicly owned property", approved August 13, 1946, as amended, is amended as follows:

(1) The first section (33 U.S.C. 426e) is amended by adding at the end thereof the following new subsection:

"(f) No project may be inconsistent with State and areawide water resources functional plans, and for those projects which include recreational beaches, they may not be inconsistent with State and areawide open space and outdoor recreation plans."

(2) Before the period at the end of section 4 (33 USC 426h) insert a comma and the following: "and the term 'functional plan' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(d) The Small Reclamation Projects Act of 1956 is amended as follows:

(1) Section 2 (43 USC 422b) is amended by adding at the end thereof the following new subsection:

"(f) The term 'functional plan' has the same meaning as given it in section 102 of the Balanced Urbanization Policy and Planning Act."

(2) Section 8 (43 USC 422h) is amended by adding at the end thereof the following new sentence: "Projects shall be consistent with State and areawide water resources functional plans, and if they include recreational development, they shall be consistent with State and areawide open space and outdoor recreation functional plans."

EXHIBIT 2

SECTION-BY-SECTION ANALYSIS OF THE DRAFT BALANCED URBANIZATION POLICY AND PLANNING ACT

TITLE I—GENERAL PROVISIONS

Declaration of purpose

Section 101 declares the purpose of the Act is to establish procedures for developing a national urbanization policy, to provide greater coordination in the administration of Federal urban and economic development grants, to provide assistance to States and localities for developing comprehensive coordination and planning agencies and activities, to consolidate comprehensive planning requirements for grant programs, and to systematize other planning requirements.

Definitions

Section 102 contains definitions of 12 terms, including "comprehensive planning," "functional planning," and "planning and development district."

Presidential responsibility

Section 103 makes the President responsible for providing policy guidance and review of the administration of the Act, and for promulgating implementing general rules and regulations, with particular regard to maintaining consistency among the comprehensive and functional planning requirements of this Act and similar requirements of Section 401 of the Intergovernmental Cooperation Act of 1968. The latter deals with "Coordinated Intergovernmental Policy and Administration of Development Assistance Programs."

TITLE II—DEVELOPMENT OF A NATIONAL URBANIZATION POLICY

Findings and declaration of policy

Section 201(a) finds that rapid urban population growth and urban development, together with a decline in farm population and migration to the cities, has created an imbalance between needs and resources which threatens the Nation's achievement of satisfactory living standards.

Section 201(b) further finds that Federal programs already have a significant effect on population distribution, economic growth, and urban development; that the purposes of separate programs often conflict; and that a concerted effort is needed to coordinate existing and future programs within a system of planned development and priorities in accordance with a national urbanization policy.

Section 201(c) declares that it is a continuing Federal responsibility, consistent with the responsibilities of State and local government and the private sector, to undertake the development of a national urbanization policy to serve as a guide for specific decisions at the national level which affect the pattern of urban growth and provide a framework for development of interstate, State, and local policy.

Section 201(d) further declares that the national urbanization policy should—

(1) favor patterns of urbanization and economic development which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources;

(2) foster the economic strength of all parts of the nation;

(3) reverse migration and growth trends which increase disparities among States, regions, and cities;

(4) treat comprehensively poverty and employment problems associated with urbanization and rural decline;

(5) develop means to alleviate present trends which accentuate racial segregation;

(6) indicate how the Federal Government can help revitalize existing communities and encourage large-scale urban and new community development;

(7) assist general governmental institutions in achieving balanced urban growth; and

(8) facilitate better coordination of Federal programs so as to encourage desirable urban growth patterns.

Urbanization policy, planning, and coordination

Section 202 provides that, in order to develop the national urbanization policy, a number of functions shall be performed within the Executive Office of the President. These include the preparation of an Annual Report on Urban Growth; the collection and evaluation of information on population growth and movement, urbanization, economic growth, land use patterns, and natural resource conservation and development; a continuing assessment of Federal efforts to develop and implement a national urbanization policy; an estimate of the needs of interstate, State, local and private plans and programs affecting that policy; an evaluation of the relationship of Federal programs and policies to interstate, State, local and private plans, policies, and programs; and an estimate of needs of Federal programs which affect those nonfederal plans, policies, and programs.

Urban growth report

Section 203(a) requires the President to transmit the Annual Report on Urban Growth to Congress not later than February 20. This Section specifies what the report shall contain, including data describing urban growth characteristics and identifying trends, a summary of key problems arising from those trends, an evaluation of Federel progress in meeting the problems and carrying out the urbanization policy, a review of interstate, State, local, and private policies and needs affecting the policy, and recommendations for implemental steps, including legislation.

Section 203(b) authorizes the President to transmit to Congress such supplementary reports on urban growth as he deems appropriate.

Section 203(c) provides that the Annual Growth Report and supplements shall be referred to the two Congressional Committees on Government Operations and on Banking and Currency, the Joint Urbanization Committee, the Joint Economic Committee, and other standing committees as the presiding officer of each House designates.

Authorization

Section 204 authorizes funds to be appropriated to the Executive Office of the President to carry out the development of the urbanization policy and preparation of the Annual Report on Urban Growth.

Joint urbanization committee

Section 205(a) establishes the Joint Urbanization Committee, composed of eight members from each of the Houses, three of whom from each House shall be members of the minority party. The Committee is to select its chairman and vice chairman from among its members.

Section 205(b) provides that the Joint Committee shall make a continuing study of the Annual Report on Urban Growth and its supplements, and study ways of coordinating programs in order to further the national urbanization policy.

Section 205(c) requires the Committee to file a report with each House not later than April 20 of each year. The report is to contain the Committee's findings and recommendations on the President's recommendations in his Annual Report on Urban Growth. The Committee may make such other reports from time to time as it deems advisable.

Section 205(d) spells out the powers of the Joint Committee or its subcommittees. Section 205(e) prescribes how the subpena may be used and oaths to witnesses administered. Section 205(f) authorizes the Committee to appoint and fix the compensation of staff and consultants, and Section 205(g) authorizes the use of staff of other committees or subcommittees of either House. Section 205(h) establishes the method of payment of the Joint Committee's expenses.

TITLE III—GRANTS FOR COMPREHENSIVE PLANNING AND COORDINATION

Short title

Section 301 provides that this title may be cited as the "Comprehensive Planning and Coordination Act."

In Section 302(a) Congress finds that an effective national urbanization policy depends upon Federal, State, and local cooperation in developing a system of comprehensive planning and coordination. It finds that development planning has tended to be too narrow and inadequately coordinated rather than comprehensive, and that comprehensive planning and coordination agencies and processes are needed to coordinate functional, project and agency program planning. It further finds that development needs may best be coordinated at the State and local levels through State and local comprehensive, policy-based planning processes and adequate governmental structure to implement the planning and coordination. Finally, Section 302(a) finds that Federal assistance programs can best be coordinated through the Executive Office of the President, using the powers granted in Section 202 of this Act and Title IV (coordination of development assistance programs) of the Intergovernmental Cooperation Act of 1968.

Section 302(b) declares that the purpose of this title is to provide assistance for comprehensive planning at the interstate, State, regional, and local levels; to encourage local governments to cooperate in solving areawide problems through comprehensive planning and coordination; to foster intergovernmental attack on problems of national urban and rural development; and to establish a method for exchange of development information among localities, the States, and the Federal Government.

Planning and coordination grants

Section 303 authorizes the Secretary of Housing and Urban Development to make comprehensive planning grants to carry out the purposes of Section 302(b). Activities comprising comprehensive planning include systematic collection of information on physical, economic, and human resource development programs and projects; collection and analysis of information related to population economic trends, urban and rural growth and change, employment, human resource trends and needs, State and local governmental organization and fiscal resources; development and use of common data basis for State, regional, and local planning; arranging for exchange of planning information among agencies at all levels of government; preparation and maintenance of a coordinated planning system, including long-range, comprehensive plans consistent with the national urbaniza-

tion policy; undertaking of studies and surveys to facilitate program coordination; provision of technical assistance and training on comprehensive planning and coordination matters on an interagency, interprogram, and intergovernmental basis; and arranging for exchange of information with the Federal Government for the President's use in discharging his responsibilities under this Act and Title IV of the Intergovernmental Cooperation Act of 1968.

Eligible agencies

Section 304 provides that the Secretary may make comprehensive planning grants directly to certain agencies and indirectly to others. The channel for making the indirect grants depends on whether a State agency or planning and development district (PDD) agencies administer the planning assistance funds from HUD.

Direct grants may be made to a State comprehensive planning agency, regional councils of government with jurisdiction in two or more States, the Appalachian Regional Development Commission, a regional commission established under the Public Works and Economic Development Act of 1965, an Indian tribal planning body, and political subdivisions in Presidentially designated disaster areas. In addition, where a State does not have a planning assistance program channeled through a State agency, direct grants for comprehensive planning may be made to PDD agencies. Finally, where neither a State agency nor planning and development districts administer planning assistance programs, direct grants may also be made to a city or county comprehensive planning agency and to governmental agencies planning for federally impacted areas, for areas undergoing rapid urbanization because of new community development aided by Federal housing programs, and for areas suffering substantial reduction of employment because of the closing of a Federal installation or the reduction of Federal procurement.

Where a State has an approved State agency administering comprehensive planning assistance to PDD agencies and local units, then the following agencies may obtain their Federal funds for comprehensive planning only through the State agency: PDD agencies, units of general local government, and governmental agencies planning for federally impacted areas, for areas undergoing rapid urbanization because of new community development aided by Federal housing programs, and for areas suffering substantial reduction of employment because of the closing of a Federal installation or the reduction of Federal procurement. If the State does not have an approved State agency for administering the planning assistance program, PDD agencies may administer it. In that case, all planning moneys from the Secretary of Housing and Urban Development must channel through the PDD agencies to all the local agencies who would otherwise have to get their grants from the State agency.

Proposals for grants

Section 305(a) sets forth the conditions that grant applicants must met in submitting applications.

Section 305(b) provides that planning or planning assistance grants shall not exceed two-thirds of the estimated cost, except that they may be up to three-fourths of the cost for agencies planning for areas suffering substantial reduction of employment because of the closing of a Federal installation or the reduction of Federal procurement.

Under Sections 305(c) and 305(d), a PDD agency may receive a grant only if its comprehensive planning is consistent with the comprehensive planning of any interstate or State agency assisted by funds granted under this title, and a local government's comprehensive planning must be consistent with that of any interstate, State, or PDD agency assisted by funds granted under this title.

In order to receive a grant for a planning assistance program, Section 305(e) provides that a State agency must enter into an agreement with the Secretary of HUD which:

Provides that the Governor designates the State agency as primarily responsible for the assistance program;

Establishes the relationship among local, areawide, and State comprehensive planning agencies;

Assures that assistance will be made available to all types of specified areas;

Sets forth methods for relating comprehensive and functional planning within and among recipient jurisdictions;

Prescribes a reasonable cost-sharing formula for the non-Federal portion of the planning conducted by the State and local assistance recipients;

Provides for an adequate State technical assistance staff and program;

Assures that the grant funds will not be used to supplant existing State or local funds; and

Provides necessary fiscal control and accounting procedures.

Section 305(f) required PDD agencies that apply for grants to conduct a planning assistance program to meet the same requirements as the State agency must meet under Section 305(e), except those relating to designation of the State agency, and cost-sharing of the non-Federal funds. For the PDD agencies, non-Federal costs must be shared between them and the assisted eligible agencies.

Section 305(g) states that planning assisted under the title must cover, to the maximum extent feasible, entire areas having common development problems. The Secretary must encourage cooperation among all parties to achieve coordinated development, and duplication of effort must be avoided. Section 305(h) requires grant funds to be used in addition to other funds available under federally assisted programs.

Powers of Secretary

Under Section 306, the Secretary is empowered to promulgate rules and regulations to carry out this title, in accordance with those promulgated by the President under Section 103. In addition, the Secretary specifically is authorized to make advance, progress, or other payments; provide technical assistance to eligible agencies; make studies and reports on comprehensive planning problems; consult with other Federal grant-administering agencies in order to determine how their programs are affected by this title; consult with the Secretary of Agriculture before making any planning grant to a nonmetropolitan PDD agency; and consult with the Secretary of Commerce before making such a grant to a PDD agency that serves as an economic development district. The Secretaries of Agriculture and Commerce may provide technical assistance to PDD agencies assisted under the title.

Interprogram coordination and comprehensive planning service agreements

Section 307 authorizes any State, regional, or local agency receiving any kind of Federal assistance funds to obtain certain services from comprehensive planning agencies, including planning review, advice, and information and technical assistance. Federal grant-administering agencies are authorized to allow grant recipients to spend functional planning grant funds to pay for such services.

Interstate compacts

Section 308 gives the advance consent of Congress to interstate compacts for comprehensive planning and development activities and to the formation of agencies to carry on such activities.

Appropriations authorized

Section 309 authorizes appropriations for the planning grants in the following amounts: up to $75 million for FY 1971; up to $100 million for FYs 1972 and 1973; and such sums as necessary for the following two fiscal years.

Allocations to States

Section 310(a) provides that 15 percent of each year's appropriation shall be allocated for State comprehensive planning, with each State getting a minimum of $50,000 and the remainder being allocated among the States on the basis of population.

Section 310(b) provides that 60 percent of the appropriation shall be allocated among the States for comprehensive planning assistance to eligible agencies, with each State getting a minimum of $30,000 and the remainder being allocated on the basis of State does not enter into an agreement to provide planning assistance, each PDD agency which enters into such an agreement will receive an allocation proportionate to its portion of the total State population.

Section 310(c) authorizes the Secretary to spend the remaining 25 percent of the appropriation as he deems appropriate for additional grants to eligible agencies; for research, technical assistance, publications, and demonstration projects (not to exceed 5 percent of the total appropriation); and for administration. He is further authorized under Section 310(a) to reallocate among eligible agencies any unspent State allocations.

Amendments

Section 311 repeals all sections of the existing 701 planning assistance statute except those authorizing nonplanning grants to councils of government and grants for historic surveys. It also appropriates $1 million for each of the fiscal years 1971 and 1972 for these two programs.

TITLE IV—UNIFORM PLANNING REQUIREMENTS FOR GRANT-IN-AID PROGRAMS

Findings and declaration of policy

Section 401(a) finds that there has been a rapid increase in grant programs and planning requirements for such programs; that these requirements lack uniformity and clear definitions of comprehensive or functional planning, and fail to identify the jurisdiction responsible for planning; that they produce a variety of overlapping and inconsistent activities in data gathering and analysis; and that they limit effectiveness of comprehensive and functional planning.

Section 401(b) states that the purpose of this title is to eliminate inconsistent and overlapping grant requirements by standardizing the definitions of comprehensive and functional planning and applying these definitions properly by providing a method of identifying planning jurisdictions and establishing the basis for developing and using common data and information bases.

Use of common planning information

Section 402 provides that Federal agencies administering grants that require comprehensive or functional planning, or require conformity to existing planning, shall require that such planning be based on social, economic, demographic and other data that are common to or consistent with those employed for planning related activities within the area.

Comprehensive and functional planning requirements

The remainder of this title amends the pertinent sections of existing Acts that deal with housing and urban development, water, sewer, and other public works and facilities, public health services, transportation, open space and recreation, and water resources, to make them conform with the definitions in this Act of planning agencies and comprehensive and functional planning.

S. 3229—INTRODUCTION OF AIR QUALITY IMPROVEMENT ACT

Mr. MUSKIE. Mr. President, on behalf of myself and Senators BAYH, EAGLETON, MONTOYA, RANDOLPH, and SPONG, I introduce legislation today which amends and extends the Clean Air Act. This bill is designed to increase our capacity to deal with the Nation's growing air pollution problem.

The bill is a response to the growing public pressure for a clean environment and a recognition that certain kinds of air pollution control activities will not or cannot be carried out without Federal intervention. The bill would provide authority: First, to carry out low-emission vehicle research; second, to extend and expand the authorizations of the Clean Air Act for research and demonstration; third, to require public hearings in connection with the adoption of any plan for the implementation of air quality standards and to require 30 days notice of any hearing on air quality standards; fourth, for the Secretary to promulgate national emission standards for new and used aircraft, vessels, and other vehicles capable of moving interstate commerce; fifth, for the Secretary to set emission standards for existing commercial vehicles; sixth, to require the assurance of compliance with national emission standards for a period beyond the initial sale of a motor vehicle, vessel, or aircraft, and so forth; seventh, to set standards for low-emission vehicles and to test and certify vehicles as to their compliance with those standards; eighth, to set national emission standards for certain organic solvents, paints, and other oxidants which, because they are manufactured and shipped in interstate commerce, cannot be effectively controlled at their point of use; ninth, to establish an Office of Noise Pollution Abatement and Control in the Department of Health, Education, and Welfare; and tenth, to authorize the Office of Noise Pollution Abatement and Control to conduct a study of the health and welfare ramifications of noise and to include recommendations for needed legislation in a report to Congress.

Mr. President, as I said at the beginning of my remarks, this legislation is an outgrowth of the growing public demand for a cleaner environment. The Subcommittee on Air and Water Pollution has learned that the technology does exist to control the great majority of air pollution sources. In those few cases where control technology has not yet been developed, the stimulus of legal sanctions should hasten that development.

I ask unanimous consent that a summary of the major provisions of this legislation and the text of the bill be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and summary will be printed in the RECORD, as requested by the Senator from Maine.

The bill (S. 3229) to amend the Clean Air Act in order to extend the authorizations for such act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects, introduced by Mr. MUSKIE (for himself and other Senators), was received, read twice by its title, referred to the Committee on Public Works, and ordered to be printed in the RECORD.

(See exhibits 1 and 2.)

Mr. MUSKIE. Mr. President, one area of growing concern to the public is the smoke from jet aircraft engines, and I would like to take this opportunity to discuss that problem in light of the recommendations of this legislation.

One of the most important features of this legislation is the authorization that the Secretary of Health, Education, and Welfare may impose emission controls for jet aircraft.

In the context of my discussion of this provision, I would like to call my colleagues' attention to recent statements of the Secretary of Transportation and the Administrator of the Federal Aviation Administration, Mr. John H. Shaffer.

On December 3 Secretary of Transportation John A. Volpe announced that "The Federal Aviation Administration of the Department of Transportation is planning action to control the emission of smoke from aircraft engines in flight." The "proposed rulemaking" was expected "in the near future."

Less than a month before Secretary Volpe's announcement the House of Representatives rejected an attempt to give the Federal Aviation Administration the authority to regulate jet aircraft emissions. That action came after the Honorable HARLEY STAGGERS, chairman of the House Interstate and Foreign Commerce Committee, stated:

> I feel that we should, in an orderly fashion, carry on the laws of the Congress and we ought to keep health matters in the health field and safety matters in the safety field.

Representative STAGGERS, arguing for retaining air pollution control jurisdiction in the Department of Health, Education, and Welfare, emphasized the importance of preserving the distinction between those agencies which promote an activity and agencies which are concerned with the environmental effects of that activity.

There is good reason not to give the Federal Aviation Administration primary responsibility for air pollution control or for any other area of environmental protection in view of the recent remarks of the Administrator of the Federal Aviation Administration. In a press release which announced the FAA's intention to regulate aircraft emissions Mr. Shaffer is quoted as stating that, "pollution is one environmental problem that's not as bad as it is obvious."

Mr. President, that kind of an attitude is as dangerous as it is mistaken. Even in the early days of our legislative activity in this area no one suggested that the problem was merely one of visibility.

Mr. Shaffer also justified his lack of concern by nothing that only 1 percent of the Nation's air pollution is from jet aircraft and that "jet exhausts are—almost entirely nontoxic."

If the Nation only controlled sources which account for a significant percentage of air pollution, there would be little improvement in the quality of our air. Powerplants, steel plants, and refineries would argue that they are only a small percentage of "the total air pollution of the United States."

People living in the vicinty of airports would not agree that "1 percent" is a small amount of air pollution.

Furthermore, aircraft emissions are similar in composition to vehicular emissions. No evidence justifies the statement that "they are almost entirely nontoxic."

Mr. Shaffer's comments provide ample evidence that the FAA must not become involved in setting standards or compliance schedules for jet aircraft emissions.

I have also been informed, Mr. President, that representatives of the Air Transport Association and the FAA have been trying to find a way for the FAA to regulate jet engine emissions and compliance schedules in order to avoid litigation or legislation. This is unacceptable behavior for a Federal regulatory agency. We cannot tolerate these efforts to frustrate the public's demands for effective environmental quality control, interfere with pending litigation, and override the action of Congress.

The trail of smoke left by jets on takeoffs and landings consists of small particles of the size that most easily enters the lungs and causes health problems. In metropolitan airports with heavy air traffic, people are exposed to large concentrations of these exhaust particles in loading areas and aboard aircraft lined up awaiting takeoff.

Although aircraft smoke emissions account for only 1 percent of the Nation's air pollution problem by weight, the problem is much worse in metropolitan areas where jets operate most frequently. Pollutants are emitted from jet engines at the rate of 78 million pounds each year. In New York, planes dump 1½ tons of pollutants per day. Los Angeles gets almost 1 ton per day. In Washington, 1,200 pounds of pollutants are dumped per day—602,000 pounds per year.

Industry has developed the technology to stop this pollution, a combustor which will make new engines smokeless. The capability to refit existing engines with these smokeless combustors will be available in a very few months.

On August 12, the State of New Jersey sued seven airlines which operate at Newark Airport, charging them with violating the State's air pollution control code. The State went to court on October 10 with evidence and a plan upon which to base a consent decree. This plan includes three steps. First, all new aircraft will be equipped with smokeless combustors when built. Second, as of February 1970, the airline industry will replace existing combustors with smokeless ones at a rate of 45 sets per month. Third, beginning in August 1970, industry replacement will be at the rate of 200 sets per month.

Under this plan, all planes equipped with Pratt & Whitney JT–8 engines would be smokeless by October 1971. The airlines appear to agree to steps one and two, but have not accepted the third step.

This gesture involves no change from their normal schedule of placing the new combustors on new engines and replacing the old combustors on repaired engines.

Congress noted the problem of aircraft air pollution in amendments to the Clean Air Act and required an investigation and report by the Department of Health, Education, and Welfare. This report, submitted earlier this year, concluded:

A reduction of particulate emissions from jet aircraft is desirable and feasible.

The report also indicated that the Department intended to encourage voluntary control action by airlines and engine manufacturers. No legislation was recommended.

Because of the technological breakthrough and the desire to encourage voluntary control action, a Government-industry meeting was held on August 28. The National Air Pollution Control Administration noted that the smokeless combustors would soon be available and urged their use. The increased cost to the airlines was mentioned and estimates for this cost were put at between $13.5 and $15 million to refit approximately 3,000 engines. Pratt & Whitney said that by next spring it would be able to turn out 200 smokeless combustors per month for refitting existing engines.

The Air Transport Association said that the cost would be $30 million. The airlines want to wait until the present engines need replacement before installing the new smokeless combustors.

Mr. President, this meeting was called to encourage voluntary action by the airlines. If the airlines would meet their responsibility, most of the engines that now pollute the skies could be clean by 1972. But if the airlines wait until their existing engines wear out before replacing the combustors, it would be mid-decade before we would begin to see the disappearance of air pollution from jet aircraft.

Apparently the proposed FAA regulation would encourage this unnecessary delay. According to Mr. Shaffer—

A program to eliminate the smoke trails is underway and air pollution from jet engines should be a thing of the past by the mid-1970's or 1980.

The time for action by the airlines is now.

The cost to replace a regular combustor with a smokeless one has been estimated at only two-tenths of 1 percent of the purchase price of an aircraft and an increased maintenance cost of six-tenths of 1 percent, or 10 cents per $100. I am sure that people who use the airlines would be willing to pay this minuscule increase in fares when it means significantly cleaner air.

If the airlines do not move in this direction, it will be necessary to enact Federal legislation for this specific purpose. When it is technologically and economically feasible to control pollution, there is no conceivable excuse for delay. Congress and the people will not tolerate it.

With these failures by the industry as a background, Mr. President, it has been suggested that the FAA and the industry might devise some acceptable scheme of regulation.

There is no reasonable justification for authorizing Federal agencies to determine and police the environmental effects of their own activities. One of the most frequent complaints made to the Subcommittee on Air and Water Pollution has been that industries and communities are required to perform at higher standards than activities authorized and regulated by the Federal Government.

Air quality determinations should be made by agencies charged with air quality responsibilities. Clearly, the agency with the responsibility for promoting air commerce should not be the agency which determines the extent to which aircraft emission controls will be necessary to protect the public health and welfare.

Last month the Senate unanimously agreed to legislation which will require that water quality determinations associated with federally authorized activities be made either by the appropriate State water pollution control agency or by the Secretary of the Interior.

The bill which I have introduced today authorizes the Secretary of Health, Education, and Welfare to promulgate air pollution emission standards for jet aircraft, which shall take effect on a schedule determined by the Secretary after consultation with the Department of Transportation and the Federal Aviation Agency.

Whether or not the present litigation effort is successful, and I hope it is, we must assure uniformity in the standards and assure that future techniques for control of other emissions from aircraft are implemented on an orderly basis.

I sincerely hope the FAA will reconsider before it takes hasty action which might interfere with pending litigation and contravene congressional intent. The FAA will have an opportunity to discuss their views on this matter before the Subcommittee on Air and Water Pollution early next year. Hasty, ill-conceived action based on questionable legal authority should be avoided.

EXHIBIT 1

S. 3229

A bill to amend the Clean Air Act in order to extend the authorizations for such Act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects

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

TITLE I

SECTION 101. This title may be cited as the "Air Quality Improvement Act".

SEC. 102. Section 104(a)(2) of the Clean Air Act is amended by striking out "and (B)" and inserting in lieu thereof "(B) part of the cost of programs to develop low emission alternatives to the internal combustion engine, including steam, electric, and fuel cells; and (C)".

SEC. 103. Section 104(c) of the Clean Air Act is amended by striking out "and for the fiscal year ending June 30, 1970, $45,000,000" and inserting in lieu thereof "for the fiscal year ending June 30, 1970, $45,000,000, for the fiscal year ending June 30, 1971, $125,000,000, for the fiscal year ending June 30, 1972, $150,000,000, and for the fiscal year ending June 30, 1973, $175,000,000".

SEC. 104. Section 108(c) of the Clean Air Act is amended in the first sentence by inserting before "a plan for the implementation" a comma and the following: "after further public hearings at least thirty days following the publishing of such standards and the proposed plan,".

"TITLE II—NATIONAL EMISSION STANDARDS ACT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'National Emission Standards Act'.

"ESTABLISHMENT OF STANDARDS

"SEC. 202. (a) The Secretary shall by regulation, giving appropriate consideration to technological feasibility and economic costs, prescribe as soon as practicable standards, applicable to the emission of any kind of substance, from any class or classes of vessels, aircraft, commercial vehicles, new noncommercial vehicles, vessel, commercial vehicle, or aircraft engines, or new noncommercial vehicle engines, which in his judgment cause or contribute to, or are likely to cause or to contribute to, air pollution which endangers the health or welfare of any persons, and such standards shall apply to such vessels, aircraft, vehicles, or engines whether they are designed as complete systems or incorporate other devices to prevent or control such pollution. Any such standards shall include requirements with respect to the manufacturers' warranty of such systems or devices necessary for the purposes of this Act.

"(b) Any regulations initially prescribed under this section, and amendments thereto, with respect to any class of vessels, aircraft, commrecial vehicle, new noncommercial vehicles, vessel, commercial vehicle, or aircraft engines, or new noncommercial vehicle engines shall become effective on the effective date specified in the order promulgating such regulations, which date shall be determined by the Secretary after consideration of the period reasonably necessary for compliance.

"(c) Any such regulations, or amendments thereto, with respect to aircraft, shall not be made effective until determined by the Secretary of Transportation to not interfere with the safety of such aircraft.

"PROHIBITED ACTS

"SEC. 203. (a) The following acts and the causing thereof are prohibited—

"(1) in the case of a manufacturer of new vessels, new aircraft, new vehicles, new vessel engines, new aircraft engines, or new vehicle engines for distribution in commerce, the manufacture for sale, the sale, or the offering for sale, or the introduction or delivery for introduction into commerce, or the importation into the United States for sale or resale, of any new vessel, new aircraft vehicle, or new vessel aircraft, or vehicle engine, manufactured after the effective date of regulations under this title which are applicable to such vessel, vehicle, or engine unless it is in conformity with regulations prescribed under section 202 (except as provided in subsection (b));

"(2) in the case of an owner of a vessel, aircraft, commercial vehicle, or vessel, commercial vehicle, or aircraft engine, the use in commerec of such vessel, aircraft, vehicle or engine after the effective date of regulations under this title which are applicable to such vessel, aircraft, or engine unless it is in conformity with regulations prescribed under section 202 (except as provided in subsection (b));

"(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information, required under section 207;

"(4) for any person to remove or render inoperative any device or element of design installed on or in a vessel, aircraft, or vehicle, or vessel, aircraft, or vehicle engine in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser; or

"(5) for any person to remove or render inoperative, other than for purposes of maintenance or repair, any device or element of design installed on or in a vessel, aircraft, or vessel or aircraft engine in compliance with regulations under this title during the term of its use in commerce.

"(b)(1) The Secretary may exempt any new vessel, new aircraft, new vehicle, or new vessel, aircraft, or vehicle engine, or class thereof, from subsection (a), upon such terms and conditions as he may find necessary to protect the public health or welfare, for the purpose of research, investigations, studies, demonstrations, or training, or for reasons of national security.

"(2) A new vessel, new aircraft, new vehicle, or new vessel, aircraft, or vehicle engine offered for importation by a manufacturer in violation of subsection (a) shall be refused admission into the United States, but the Secretary of the Treasury and the Secretary may, by joint regulation, provide for deferring final determination as to admission and authorizing the delivery of such a vessel, aircraft, vehicle, or engine offered for import to the owner or consignee thereof upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such vessel, aircraft, vehicle, or engine will be brought into conformity with the standards, requirements, and limitations applicable to it under this title. The Secretary of the Treasury shall, if a vessel, aircraft, vehicle, or engine is finally refused admission under this paragraph, cause disposition thereof in accordance with the customs laws unless it is exported, under regulations prescribed by such Secretary, within ninety days of the date of notice of such refusal or such additional time as may be permitted pursuant to such regulations, except that disposition in accordance with the customs laws may not be made in such manner as may result, directly or indirectly, in the sale, to the ultimate consumer, of a new vessel, aircraft, vehicle, or engine that fails to comply with applicable standards of the Secretary of Health, Education, and Welfare under this title.

"(3) A new vessel, aircraft, vehicle, or engine intended solely for export, and so labeled or tagged on the outside of the container and on the vessel, aircraft, vehicle, or engine itself, shall not be subject to the provisions of subsection (a).

"INJUNCTION PROCEEDINGS

"SEC. 204. (a) The district courts of the United States shall have jurisdiction to restrain violations of paragraph (1), (2), or (3) of section 203(a).

"(b) Actions to restrain such violations shall be brought by and in the name of the United States. In any such action, subpenas for witnesses who are required to attend a district court in any district may run into any other district.

"PENALITIES

"SEC. 205. Any person who violates paragraph (1), (2), (3), (4), or (5) of section 203(a) shall be subject to a fine of not more than $1,000. Such violation with respect to sections 203(a)(1), 203(a)(2), 203(a)(4) and 203(a)(5) shall constitute a separate offense with respect to each vessel, aircraft, vehicle, or engine.

"CERTIFICATION

"SEC. 206. (a) Upon application of the manufacturer, the Secretary shall test, or require to be tested, in such manner as he deems appropriate, any new vessel, aircraft, vehicle, or engine submitted by such manufacturer to determine whether such vessel, aircraft, vehicle, or engine conforms with the regulations prescribed under section 202 of this title. If such vessel, aircraft, vehicle, or engine conforms to such regulations the Secretary shall issue a certificate of conformity upon such terms, and for such period of not less than one year, as he may prescribe.

"(b) Any new vessel, aircraft, vehicle, or engine sold by such manufacturer which is in all material respects substantially the same construction as the test vessel, aircraft, vehicle, or engine for which a certificate has been issued under subsection (a), shall for the purposes of this Act be deemed to be in conformity with the regulations issued under section 202 of this title.

"(c) Vessels and aircraft and vessel and aircraft engines used in commerce and subject to standards promulgated under section 202 of this title shall be periodically certified under such procedures as the Secretary may by regulation prescribe.

"RECORDS AND REPORTS

"SEC. 207. (a) Every manufacturer or owner of a vessel or aircraft shall establish and maintain such records, make such reports, and provide such information as the Secretary may reasonably require to enable him to determine whether such manufacturer or owner has acted or is acting in compliance with this title and regulations thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee at reasonable times to have access to and copy such records.

"(b) All information reported or otherwise obtained by the Secretary or his representatives pursuant to subsection (a), which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from duly authorized committees of the Congress.

"STATE STANDARDS

"SEC. 208. (a) No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this title. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

"(b) The Secretary shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this title.

"(c) Nothing in this title shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

"FEDERAL ASSISTANCE IN DEVELOPING VEHICLE INSPECTION PROGRAMS

"SEC. 209. The Secretary is authorized to make grants to appropriate State air pollution control agencies in an amount up to two-thirds of the cost of developing meaningful uniform motor vehicle emission device inspection and emission testing programs except that (1) no grant shall be made for any port of any State vehicle inspection program which does not directly relate to the cost of the air pollution control aspects of such a program; and (2) no such grant shall be made unless the Secretary of Transportation has certified to the Secretary that such program is consistent with any highway safety program developed pursuant to section 402 of title 23 of the United States Code.

"REGISTRATION OF FUEL ADDITIVES

"SEC. 210. (a) The Secretary may by regulation designate any fuel or fuels (including fuels used for purposes other than motor vehicles), and after such date or dates as may be prescribed by him, no manufacturer or processor of any such fuel may deliver any such fuel for introduction into interstate commerce or to another person who, it can reasonably be expected, will deliver such fuel for such introduction unless the manufacturer of such fuel has provided the Secretary with the information required under subsection (b)(1) of this section and unless any additive contained in such fuel has been registered with the Secretary in accordance with subsection (b)(2) of this section.

"(b) For the purposes of this section the Secretary shall require (1) the manufacturer of such fuel to notify him as to the commercial identifying name and manufacturer of any additive contained in such fuel; the range of concentration of such additive or additives in the fuel; and the purpose in the use of such additive; and (2) the manufacturer of any such additive to notify him as to the chemical composition of such additive or additives as indicated by compliance with clause (1) above, the recommended range of concentration of such additive, if any, the recommended purpose in the use of such additive, and to the extent such information is available or becomes available, the chemical structure of such additive or additives. Upon compliance with clauses (1) and (2), including assurances that any change in the above information will be provided to the Secretary, the Secretary shall register such fuel additive.

"(c) All information reported or otherwise obtained by the Secretary or his representative pursuant to subsection (b), which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code, shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees of the United States concerned with carrying out this Act or when relevant in any proceeding under this title. Nothing in this section shall authorize the withholding of information by the Secretary or any officer or employee under his control, from the duly authorized committees of the Congress.

"(d) Any person who violates subsection (a) shall forfeit and pay to the United States a civil penalty of $1,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States, brought in the district where such person has his principal office or in any district in which he does business. The Secretary may upon application therefor, remit or mitigate any forfeiture provided for in this subsection, and he shall have authority to determine the facts upon all such applications.

"(e) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

"DEVELOPMENT OF LOW-EMISSION VEHICLES

"SEC. 211. In order to encourage research and promote the development of low-emission vehicles the Secretary is authorized to—

"(1) prescribe special low-emission standards for any class or classes of vehicles or engines and such standards shall permit an emission of not more than 50 per centum of the amount of pollutants permitted by standards established pursuant to section 202 for the same class of vehicle or engine;

"(2) provide testing procedures to determine if vehicles and engines meet such standards; and

"(3) certify vehicles or engines meeting such standards as low-emission vehicles or engines for the purpose of this section.

"SOLVENTS

"SEC. 212. (a) The Secretary by regulation may designate solvents, coating materials, organic or inorganic materials, and products containing any such substance as a constituent thereof, either singly or by classes or in combinations, which when used in uncontrolled situations, in his judgment, may cause or contribute to air pollution adversely affecting health or welfare; and after such date or dates as may be prescribed by him, no manufacturer of any such product or substance may deliver any such product or substance into interstate commerce unless such substance has been registered with the Secretary in accordance with this section.

"(b) For the purposes of this subsection the Secretary shall require (1) the manufacturer of any product which contains any such substance to notify him as to the commercial identifying name and the manufacturer of the solvent, coating material, organic or inorganic material, or other such substance contained in the product; the range of concentration of such substance; the purpose of such substance; and (2) the manufacturer of any such substance to notify him as to the chemical structure and composition of such substance as indicated by compliance with clause (1) above, the recommended range of concentration of such substance, if any, and the recommended purpose of such substance. Upon compliance with clauses (1) and (2), including assurances that any change in the above information will be provided to the Secretary, the Secretary shall register such product.

"(c) The Secretary may develop and publish proposed standards, either singly or by classes, for the use of those substances and products that are registered in compliance with subsections (a) and (b) above. The Secretary may from time to time review such proposed standards and make changes therein, taking into consideration increased knowledge regarding technology or effects on health or welfare.

"(d) If the Secretary determines that any such substance or class thereof constitutes a substantial and imminent danger to the health or welfare of any person, he may promulgate any of the proposed standards for such substance which have been developed and published pursuant to subsection (c) and he may prohibit the introduction of such substance into interstate commerce unless it complies with such regulations as he shall promulgate under this subsection.

"(e) If two or more manufacturers, vendors, or distributors of any such substance or product notify the Secretary that two or more State, interstate, or local agencies or authorities have established standards, rules, or regulations applicable to such substance or product and varying from each other in their terms or effects upon the manufacturer, vendor, or distributor, the Secretary may promulgate any of the proposed standards he has developed, and published for such substance or product under subsection (c) and they shall become effective after a date established by him.

"(f) At any time he shall deem it necessary, the Secretary may add additional substances or products to the designations made under subsection (a), add additional substances or products to those to which proposed standards existing under subsection (c) already apply, or promulgate under subsection (d) or (e) additional standards which have been proposed under subsection (c).

"(g) All information reported or otherwise obtained by the Secretary or his representative pursuant to this section, which information contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of such section 1905, except that such information may be disclosed to other officers or employees concerned with carrying out this Act or when relevant in any proceeding under this Act. Nothing in this subsection shall authorize the withholding of information by the Secretary or any officer or employee under his control from the duly authorized committees of Congress.

"(h)(1) Any person who violates after the effective date the provisions of subsections (a), (d), or (e) or regulations promulgated pursuant thereto shall forfeit and pay to the United States a civil penalty of $1,000 for each and every day of the continuance of such violation, which shall accrue to the United States and be recovered in a civil suit in the name of the United States brought in the district where such person has his principal office or in any district in which he does business. The Secretary may, upon application therefor, remit or mitigate any forfeiture provided for in this section and he shall have authority to determine the facts upon all such applications.

"(2) It shall be the duty of the various United States attorneys, under the direction of the Attorney General of the United States, to prosecute for the recovery of such forfeitures.

"DEFINITIONS FOR TITLE II

"SEC. 213. As used in this title—

"(1) The term 'manufacturer' as used in sections 203, 206, and 207 means any person engaged in the manufacturing or assembling of new vessels, aircraft, or vehicles, or new vessel, aircrafts, or vehicle engines, or importing such vessels, aircraft, vehicles, or engines for resale, or who acts for and is under the control of any such person in connection with the distribution of such vessels, aircraft, vehicles, or engines, but shall not include any dealer with respect to new vehicles or new vehicle engines received by him in commerce.

"(2) The term 'vessel' means any self-propelled watercraft designed for transporting persons or property on or in water.

"(3) The term 'new vessel' means a vessel the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term 'new vessel engine' means an engine in a new vessel or a vessel engine the equitable or legal title to which has never been transferred to the ultimate purchaser.

"(4) The term 'aircraft' means any self-propelled contrivance designed for transporting persons or property in the air.

"(5) The term 'new aircraft' means an aircraft the equitable or legal title to which has never been transferred to an ultimate purchaser; and the term 'new aircraft engine' means an engine in a new aircraft or an aircraft engine the equitable or legal title to which has never been transferred to the ultimate purchaser.

"(6) The term 'vehicle' means any self-propelled vehicle designed for transporting persons or property on a street or highway or on rails, or any vehicle for agricultural use, and the term 'motor vehicle', means only such a vehicle designed for transporting persons or property on a street or highway.

"(7) The term 'commercial' means used with profit as the primary aim.

"(8) The term 'new' as used with respect to a vehicle, motor vehicle or vehicle or motor vehicle engine means a vehicle, motor vehicle, or engine the equitable or legal title to which has never been transferred to an ultimate purchaser.

"(9) The term 'dealer' means any person who is engaged in the sale or the distribution of new vehicles or new vehicle engines to the ultimate purchaser.

"(10) The term 'ultimate purchaser' means, with respect to any new vessel, aircraft, vehicle, or new vessel, aircraft or vehicle engine, the first person who in good faith purchases such new vessel, aircraft, vehicle or engine for purposes other than resale.

"(11) The term 'commerce' means (A) commerce between any place in any State and any place outside thereof; and (B) commerce wholly within the District of Columbia."

SEC. 106. Section 309 of the Clean Air Act is amended by striking out "and $134,300,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "$134,300,000 for the fiscal year ending June 30, 1970, $150,000,000 for the fiscal year ending June 30, 1971, $175,000,000 for the fiscal year ending June 30, 1972, and $200,000,000 for the fiscal year ending June 30, 1973".

TITLE II

SEC. 201. This title may be cited as the "Noise Pollution and Abatement Act".

SEC. 202. (a) The Secretary of Health, Education, and Welfare shall establish within the Department of Health, Education, and Welfare an Office of Noise Abatement and Control, and shall carry out through such office a full and complete investigation and study of noise and its effect in order to determine—

(1) effects at various levels;

(2) projected growth of noise levels in urban areas through the year 2000;

(3) the psychological effect on humans;

(4) effects of sporadic extreme noise (such as jet noise near airports) as compared with constant noise;

(5) effect on wildlife and property (including values);

(6) effect of sonic booms on property (including values); and

(7) such other matters as may be of interest in the public welfare.

(b) The Secretary shall report the results of such investigation and study, together with his recommendations for legislation or other action, to the President and the Congress not later than one year after the date of enactment of this Act.

(c) In any case where a department or agency of the Government is carrying out any activity resulting in noise which amounts to a public nuisance or is otherwise objectionable, such department or agency shall consult with the Secretary of Health, Education, and Welfare to determine possible means of abating such noise.

(d) There is authorized to be appropriated such amount, not to exceed $30,000,000, as may be necessary for the purposes of this section.

EXHIBIT 2

SUMMARY OF PROVISIONS

TITLE I

Discussion

Low-Emission Vehicle Research—This section expands the research programs authorized in the Clean Air Act to include research on the development of low-emission alternatives to the internal combustion engine.

Extension of Authorization for Research and Development—This section extends the research authorization of the Clean Air Act to provide the following amounts for the next three years:

Fiscal year:	
1971	$125,000,000
1972	150,000,000
1973	175,000,000

Notice of Public Hearings—This section amends Section 108(c)(1) of the Clean Air Act to require public hearings on state plans for implementation of air quality standards as well as 30 days notice of these hearings required on standards.

National Emission Standards for Vessels, Aircraft, Vehicles, and Engines—This section amends title II of the Clean Air Act to extend the national emission standards authority of the Secretary of Health, Education and Welfare to vessels, aircraft, commercial vehicles and other many sources of pollution. All regulations relating to these sources of air pollution shall become effective on the date specified in the Secretary's promulgating order. Aircraft regulations will require consultation with the Secretary of Transportation as to safety.

Necessary Regulatory Authority is provided—The Secretary is authorized to include requirements with respect to the manufacturer's warranty to assure compliance with standards after initial sale of a vehicle, vessel, aircraft, etc.

Development of Low-Emission Vehicles—This provision authorizes the Secretary to set special low-emission standards for motor vehicles, and to test and certify vehicles as to their compliance with these low-emission standards.

Extension of General Authorization—This provision extends the general authorization of the Clean Air Act, for other than Section 104 research and demonstration programs, to provide the following amounts for the next three years:

Fiscal year:	
1971	$150,000,000
1972	175,000,000
1973	200,000,000

Registration and Regulation of Solvents—This provision authorizes the Secretary to order registration of certain organic solvents, paints, and other oxidants, and to (develop and publish) recommend national emission standards for such solvents. The Secretary may set standards for solvents in the event of conflicting state regulations on solvents or a threat to the public health and welfare posed by a solvent and may prohibit the introduction into interstate commerce of this substance, until it meets the standards promulgated under this act. The Secretary may subject additional substances to the requirement of registration or of compliance with standards promulgated under this section.

TITLE II

Noise Pollution—This title establishes an Office of Noise Pollution, Abatement and Control in the Department of Health, Education and Welfare and requires the Secretary to conduct a study of the effects of noise at various levels on public health and welfare, including the effects on wildlife and property. The Secretary shall report to Congress on the results of this study with recommendations for needed legislation. Any Federal Department or agency engaging in activities which results in excessive noise is directed to consult with the Secretary on means of abating such noise.

An amount of not more than $30,000,000 is authorized to carry out the purposes of this section.

Mr. EAGLETON. Mr. President, I am pleased to join my colleague from Maine, Senator MUSKIE, the distinguished chairman of the Subcommittee on Air and Water Pollution of the Senate Public Works Committee, in sponsoring the Air Quality Improvement Act. His endeavors in developing legislation to control air and water pollution and to enhance the quality of our environment are widely recognized. These objectives, which have received increasing attention by governmental officials in recent years, have been pursued by the Senator for many years. He provided leadership when there was little political glamour in so doing.

The effective control of air pollution is a major national problem. This was recognized by the Clean Air Act of 1967. The urgency of effectively solving this problem is realized by ever greater numbers of our citizens as pollution alerts increase in cities throughout the Nation.

Such an episode occurred in St. Louis, Mo., in August of this year. Irate citizens were moved to ask what action was being taken on the local and State level to deal with air pollution in St. Louis. The Subcommittee on Air and Water Pollution held hearings in St. Louis on October 27, 1969, to seek answers to these questions and to find out how the Federal Clean Air Act of 1967 was operating. The testimony by governmental officials, academic and medical professional spokesmen, citizens organizations, and individuals will be useful to the subcommittee as it considers the bill introduced today.

Application of the Clean Air Act of 1967 by State and local officials is entering a crucial phase in many States. Air quality standards are being formulated and implementation plans for achieving the standards are being developed. The consideration of this bill will afford the Senate an opportunity to review the progress the States have made in pursuing the objectives of the act.

Air quality standards have recently been formulated for the St. Louis metropolitan area. Citizens of the area demanded that stringent standards and effective plans for meeting them be adopted. Public hearings on proposed standards were held by the Missouri Air Conservation Commission in St. Louis as required by the Clean Air Act. The testimony submitted at these hearings seemed to have little effect on the Commission's decision regarding standards for the area. Following numerous appeals for the adoption of more stringent standards for particulate matter and oxides of sulfur, only one minor change was made in the standards originally proposed. These standard-setting hearings should not be perfunctory or routine. They were not intended to be such by the Congress. The intention of Congress was to provide a meaningful forum for the voice of the public to be heard in the determination of the quality of air citizens will be forced to breathe in the future. I trust that the Secretary of Health, Education, and Welfare will carefully examine the procedures followed by State officials in adopting standards to insure that the opinions of the affected citizen have been heard.

The bill introduced today provides for the requirement of public hearings with adequate notice prior to the adoption of plans for the implementation and enforcement of air quality standards. That this is necessary was made clear at the St. Louis hearings. This is the action phase of the Clean Air Act and concerned citizens should have the opportunity to participate in the development of the action plan. Missouri and Illinois officials indicated to the subcommittee that such hearings would be held for the plans to control particulate matter and oxides of sulfur. I think it is most important that section 104 of the bill be made a part of the Clean Air Act.

The significance of the contribution made by automobiles to the air pollution problem was indicated at the St. Louis hearing also. Efforts to effectively confront this problem must be accelerated. Through the provisions of this bill and others being considered by the Congress, significant progress can be made in this area.

As Senator MUSKIE has indicated, the control of aircraft emissions and noise has become increasingly urgent. A typical situation illustrating this need is found in St. Louis County, Mo., near the Lambert-St. Louis Airport. Suburban communities surround the airport. As traffic increases and airplane engines become larger, and more powerful, the pollution and noise will undoubtedly increase. The citizens of Berkeley, Mo., for example, face this ever-growing problem with little hope of effective preventive action. Communities facing similar problems may be found throughout the Nation. Consequently, it is important that these provisions of the bill be given favorable consideration.

The air pollution crisis becomes more critical daily. Citizen demands for effective action grow louder and louder. The provisions of this bill would significantly strengthen the Clean Air Act. Therefore, I am happy to join with Senator MUSKIE in sponsoring this important legislation.

S. 3231—INTRODUCTION OF A BILL RELATING TO RELEASE OF COBALT FROM THE NATIONAL STOCKPILE

Mr. SCOTT. Mr. President, I introduce, for appropriate reference, legislation to authorize the release of 40,200,000 pounds of cobalt from the national and supplemental stockpiles. I am advised by the General Services Administration that this is the amount of cobalt currently held by the Federal Government in excess of requirements for the national stockpile objective and already existing sales authorizations.

Although cobalt has been used primarily in the past as an alloy in the production of steel, it has become increasingly popular as a material to be used as a substitute for, or in combination with, nickel in the process of electroplating. As the nickel shortage, with which we have been dealing for years, was turned into an almost complete absence of the metal by the prolonged Inco strike, research and development divisions of American metal finishing companies devoted an increasing share of time and funds to the search for satisfactory substitutes. This was done not only because of the strike situation, but also because it was realized that even with a strike settlement, a shortage of nickel in this country will continue for some years to come.

One nickel substitute, of which industry has been aware for some time, is cobalt. New technologies, which are being adopted by industry on a continually growing scale, have now made feasible the use of cobalt as a complete substi-

tute for nickel in electroplating and metal finishing. Although a more usual approach is the use of cobalt in combination with nickel for this purpose, the fact still remains that cobalt can be used by industry to great advantage in extending the nickel supply.

Today, the Federal Government has in inventory some 82,800,000 pounds of cobalt. The present national stockpile objective for this metal is 38,200,000 pounds. This leaves an excess of 44,600,000 pounds, of which only 4,400,000 pounds can be disposed through GSA under existing authorizations. Current cobalt disposal plans call for the release of 2 million pounds this month, 2 million pounds in January, and the remaining 400,000 pounds in February.

Largely because of the new technologies in electroplating, all recent GSA sales of cobalt have been heavily oversubscribed. This situation, unless serious implications for employment, can be expected to continue unless further relief is provided. This is the purpose of my bill, which would make possible the sale of the additional 40,200,000 pounds of cobalt which is currently held by the Federal Government, but which is needed neither for stockpile purposes nor for existing sales authorization. I want to emphasize, however, that this legislation would do so while, at the same time, providing protection to the Federal Government against avoidable loss, and while providing to producers, processors and consumers protections against the avoidable disruptions of their usual markets.

Mr. President, this bill has the endorsement of the Metal Finishing Suppliers' Association, Inc., and the National Association of Metal Finishers, national organizations with extensive corporate membership in my Commonwealth of Pennsylvania and in the other industrial States. Information which I have received from both of these associations indicates that there is urgent need for cobalt release legislation. I urge immediate and favorable consideration.

Mr. President, I welcome as a cosponsor the distinguished Senator from Illinois (Mr. PERCY).

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

The bill (S. 3231) to authorize the release of 40,200,000 pounds of cobalt from the national stockpile and the supplemental stockpile, introduced by Mr. SCOTT (for himself and Mr. PERCY), was received, read twice by its title, and referred to the Committee on Armed Services.

Mr. PERCY. Mr. President, I have cosponsored today with the Senator from Pennsylvania (Mr. SCOTT) a bill authorizing the General Services Administration to release 40 million pounds of cobalt for sale at market prices which have been declared surplus.

There has been for years a chronic nickel shortage. The Inco strike, which was only settled on November 19, has seriously aggravated this shortage since Inco supplies at least 70 percent of domestic nickel needs.

Nickel has in the past been vital to the operations of the metal plating and metal finishing industries. Illinois, in particular, has an important interest in this matter. According to a recent market survey released by a leading industrial publication, probably more metal plating and finishing businesses engage in business in Illinois than in any other State.

When the supply of nickel was cut off, the affected industries searched for a substitute to meet their needs. This search ended when it was discovered that cobalt was an excellent substitute in most cases. Available commercial supplies and production were not sufficient, however, to meet the new demands placed upon cobalt. GSA then came to the aid of affected industries by releasing 2 million pounds of excess cobalt for sale. The offered was heavily oversubscribed. This prompted GSA to offer an additional 6 million pounds at a rate of 2 million pounds per month during the months of November, December, and January. Even with this release, however, demand for cobalt will continue.

Although the nickel strike has been settled, estimates range from 6 months to 2 years for the nickel industry to come up to its previous level of production. Even then, production will be able to meet only about 70 percent of the ever-increasing domestic commercial demand. To cover the present and future shortfall in nickel production or against demand, cobalt is needed. It is essential that the only available large supply of cobalt is that held in surpus by GSA. I hope that early, favorable attention will be given to the bill.

S. 3234—INTRODUCTION OF A BILL TO PROVIDE A CRIMINAL PENALTY FOR SHOOTING AT CERTAIN BIRDS, FISH, AND OTHER ANIMALS FROM AN AIRCRAFT

Mr. NELSON. Mr. President, today I introduce, for appropriate reference, a bill to prohibit the shooting of wildlife from aircrafts.

This bill will put an end to the so-called sport of hunting wildlife from airplanes on Federal lands. According to the recent television documentary "The Wolfmen," many hunters kill wolves in Alaska as a sport, declaring that the wolves are too smart to catch any other way. This bill will even the odds a bit not only in hunting wolves but practically any other form of wildlife you can think of, including, I am told, the shooting of eagles.

This bill will also cut down on much of the killing of wolves in Alaska. There are probably less than 800 wolves in the contiguous United States and approximately 5,000 wolves in Alaska. Yet, in the past 4 years, 5,693 bounties have been paid for wolves in Alaska. If that rate continues, there will be virtual extinction of wolves in a handful of years.

This bill will not give the protection to the timber wolf that it deserves but it will cut down on the mass extermination that is presently going on. I intend to introduce another bill in the near future that will extend the protection of endangered species to all Federal lands, not just Federal wildlife refuge areas. In the State of Alaska, that would mean the addition of over 322,000,000 acres to the already existing 26,000,000 acres on which wolf hunting is prohibited.

I ask unanimous consent that the bill be printed in the RECORD.

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. 3234) to amend the Fish and Wildlife Act of 1956, to provide a criminal penalty for shooting at certain birds, fish, and other animals from an aircraft, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fish and Wildlife Act of 1956 is amended by adding at the end thereof the following new section:

"SEC. 13. (a) Whoever, while airborne in an aircraft, shoots at any bird, fish, or other animal of any kind whatever which is on or over any land (or on, over, or in any water) owned by or reserved to the United States shall be fined not more than $5,000 or imprisoned not more than one year or both.

"(b) This section shall not apply to any person in the discharge of his duties if such person is employed by any state or the United States to administer or protect land, water or wildlife."

ADDITIONAL COSPONSORS OF BILLS

S. 3204

Mr. MAGNUSON. Mr. President, I ask unanimous consent that at the next printing, the name of the senior Senator from Alabama (Mr. SPARKMAN) be added as a cosponsor of S. 3204, to amend the act requiring certain safety devices on household refrigerators shipped in interstate commerce.

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

S. 3220

Mr. RANDOLPH. Mr. President, I ask unanimous consent that, at the next printing, my name be added as a cosponsor of 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 on yesterday by the able majority leader.

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

S. 3223

Mr. MAGNUSON. Mr. President, I ask unanimous consent that at the next printing, the name of the senior Senator from Wyoming (Mr. MCGEE) be added as a cosponsor to 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.

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

SENATE CONCURRENT RESOLUTION 50—CONCURRENT RESOLUTION REPORTED AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF THE 1969 REPORT OF THE SENATE SPECIAL SUBCOMMITTEE ON INDIAN EDUCATION (S. REPT. 91–501)

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original concurrent resolution (S. Con. Res. 50), and submitted a report (No. 91–600) thereon, which concurrent resolution was placed on the calendar and the report was ordered to be printed:

S. CON. RES. 50

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 "American Indian Education: A National Tragedy—A National Challenge" (Senate Rept. 91–501).

SENATE RESOLUTION 294—SUBMISSION OF A RESOLUTION TO PRINT THE NATIONAL ESTUARINE POLLUTION STUDY AS A SENATE DOCUMENT

Mr. RANDOLPH submitted the following resolution (S. Res. 294); which was referred to the Committee on Rules and Administration:

S. RES. 294

Resolved, That there be printed as a Senate document, in one volume, with illustrations, the National Estuarine Pollution Study, submitted to the Congress by the Federal Water Pollution Control Administration, Department of the Interior, in accordance with Section 5(g)(3), Public Law 89–753, Clean Water Restoration Act of 1966, and that there be printed two thousand five hundred additional copies of such document for the use of the Committee on Public Works.

SENATE RESOLUTION 295—RESOLUTION REPORTED TO PAY A GRATUITY TO MARY K. DURISOE

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 295); which was placed on the calendar:

S. RES. 295

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Mary K. Durisoe, widow of John E. Durisoe, an employee of the Senate at the time of his death, a sum equal to 8 months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 296—RESOLUTION REPORTED TO PAY A GRATUITY TO JAMES H. NEWMAN, SR.

Mr. JORDAN of North Carolina, from the Committee on Rules and Administration, reported the following original resolution (S. Res. 296); which was placed on the calendar:

S. RES. 296

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to James H. Newman, Sr., father of James H. Newman, an employee of the Senate at the time of his death, a sum equal to 6 months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 290

Mr. MAGNUSON. Mr. President, I ask unanimous consent that, at the next printing, the name of the senior Senator from New York (Mr. JAVITS) be added as a cosponsor of Senate Resolution 290, a resolution relating to support of the Senate for land reform in South Vietnam.

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

NOTICE OF MOTION TO SUSPEND THE RULE—AMENDMENTS TO DISTRICT OF COLUMBIA APPROPRIATION BILL, 1970

AMENDMENT NO. 418

Mr. BAYH submitted the following notice in writing:

In accordance with rule XL of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill (H.R. 14916) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1970, and for other purposes, the following amendments, namely:

(1) on page 2, line 4, strike out "$100,000,000" and insert in lieu thereof "$100,500,000".

(2) On page 3, line 4, strike out "$39,201,000" and insert in lieu thereof "$39,701,000".

(3) On page 4, line 2, immediately before the period, insert a colon and the following: *"Provided further*, That $500,000 of this appropriation shall be availabe for municipal services at the local level, through Neighborhood Service Centers".

Mr. BAYH also submitted amendments, intended to be proposed by him, to House bill 14916, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1970, and for other purposes, which were ordered to lie on the table and to be printed.

(For text of amendments referred to, see the foregoing notice.)

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

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

John L. Briggs, of Florida, to be U.S. attorney for the middle district of Florida for the term of 4 years, vice Edward F. Boardman, resigned.

George A. Locke, of Washington, to be U.S. marshal for the eastern district of Washington for the term of 4 years, vice James E. Atwood.

Eugene E. Silver, Jr., of Kentucky, to be U.S. attorney for the eastern district of Kentucky for the term of 4 years, vice George I. Cline.

Loren Wideman, of Florida, to be U.S. marshal for the southern district of Florida for the term of 4 years, vice Guy W. Hixon, resigned.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee in writing on or before Tuesday, December 16, 1969, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

"THE EFFLUENT SOCIETY"—A NEW YORK TIMES EDITORIAL

Mr. MANSFIELD. Mr. President, 2 weeks ago, the senior Senator from Wisconsin (Mr. PROXMIRE) introduced a bill which embodies a new and imaginative approach to the problem of water pollution. I strongly endorse the Proxmire proposal, and I have added my name as a cosponsor to his bill, the Regional Water Quality Act of 1970—S. 3181.

S. 3181 would establish a system of national effluent charges, imposed upon industries that pollute the water. Since waste disposal is one of the legitimate costs of doing business, industry should pay for the privilege of using public waterways to dispose of its waste.

Imposing these charges will give industry the incentive it needs to cut down on the waste it discharges. The money that is collected from the effluent charges by the Federal Government will be made available to help municipalities to build more adequate waste treatment facilities. Moreover, S. 3181 would accomplish its goals without increasing Federal spending and without requiring taxes to be raised.

Recently, the General Accounting Office—GAO—issued a report which concluded that the $5.4 billion spent by the Federal Government on water pollution has not reduced water pollution in this country at all. In other words, the present system simply does not work. The Proxmire bill resulted from this finding and from the need to find a solution that will work.

I believe Senator PROXMIRE's new approach can work. The New York Times does also. In the lead editorial from yesterday's edition, the Times found the GAO report "alarming" and supported Senator PROXMIRE's idea as "simple, fair, and extremely promising."

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

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

THE EFFLUENT SOCIETY

An alarming report compiled by the General Accounting Office indicates that an outlay of $5.4 billion to reduce water pollution in the past twelve years has left America's rivers as foul as they were before a dollar of it has been spent. The "shotgun" approach—Federal grants on a first-come, first-served basis without regard to regional needs, much less anything resembling a national plan—has allowed the effect of new municipal waste treatment facilities to be wholly negated by the continued freedom of private industries to pour their waste into public waters with no penalty worth considering.

The report raises the question of what good it did, for example, to lower the municipally produced pollution of Oregon's Williamette River by 20,000 units when two paper mills were allowed to dump up to a hundred times that amount of waste into the same waterway. What good did it do six Louisiana towns to cut pollution by 147,000 units along the Mississippi, mostly with Federal funds, when eighty industrial plants along the same stretch of water were allowed to put 2.4 million units into it?

An easy answer is that without the municipal plants these rivers, and others cited in the report, would be that much dirtier. But that is hardly a more satisfactory approach than the suggestion that Federal grants should be curtailed until much more planning can be done and a more effective distribution of funds can be made. The situation is far too urgent either for complacency or for protracted studies followed by equally protracted building schedules.

To cut through delaying tactics and achieve the quickest possible improvement, Senator Proxmire, Democrat of Wisconsin, has come up with a plan that is simple, fair, and extremely promising. He proposes that "effluent charges" be levied against industrial plants directly in proportion to the volume of waste they discharge into a stream and its relative strength and toxicity.

The Proxmire approach can be critized for appearing to uphold an industrialist's right to pollute the public waters—indeed, to make the Federal Government a party to the arrangement for a fee. Ideally, all such polluting should be flatly forbidden by law—a technically feasible solution that we hope to see enacted sooner rather than later. But it is not politically attainable now. Meanwhile, the need to reverse the trend toward contamination is too desperate to oppose Senator Proxmire's reasonable transitional step on the road to a fully effective prohibition.

The measure's purpose is not to punish industrial contaminators but to make it unprofitable for them to continue as such. Reducing their pollution tax would become as much an objective as cost-cutting anywhere else along the line of production, to the obvious advantage of the environment.

Realistically, it is probable that some of the added cost would be passed along to the customers, but that is hardly reason for ruling out the proposal. A consumers' society must recognize, sooner or later, that a high material standard can be hard on Nature and the damage must somehow be paid for. Americans may have to resign themselves to paying a little more for the fruits of industry if they are to enjoy them in an environment still tolerable enough to let them enjoy anything at all.

RETURNING NATIONAL GUARDSMEN

Mr. DOLE. Mr. President, today in Topeka, Kans., ceremonies are being held to honor soldier citizens of Kansas who are returning to their hometowns and families.

In May 1968, the 69th Infantry Brigade of the Kansas National Guard was summoned to active duty following the *Pueblo* crisis. Across the State members of the 69th responded, as Kansans have done whenever America has needed them. They set aside civilian jobs and concerns and donned the Army green. They said goodby to loved ones and friends and went away with their comrades to serve America. Duty called and these brave men answered.

Mr. President, the men of the 69th have made a significant sacrifice in giving up 18 months of their civilian lives, careers, and service to their communities. The Nation owes a deep debt of gratitude to these men, not only for what they gave up but for what they gave. The 69th distinguished itself throughout its period of active duty by its dedication, its excellence and its contribution to the Army's defense effort. Men who one day had been civil servants, businessmen, and laborers, the next day were first-rate full-time soldiers. They gave real meaning to the National Guard's tradition of readiness.

I regret our business here in the Senate prevents my attendance at the Topeka welcoming ceremonies today. But I am also grateful that I may tell my colleagues of these returning soldiers.

I wish to express my congratulations and appreciation for the job the 69th has done and to extend best wishes and warm regards as our men resume their civilian lives.

ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Mr. PROXMIRE. Mr. President, 21 years ago, on December 10, 1948, the United Nations General Assembly, meeting in Paris, adopted the Universal Declaration of Human Rights.

The declaration is concerned with two groups of rights. The first 21 articles set forth civil and political rights—such as the right to life, liberty, and security of person; equality before the law; freedom of opinion and expression; and the right of representative government. The next six articles set forth economic, social, and cultural rights—such as the right to social security, the right to a job, and the right to education. The last three articles of the declaration state the need for a social and international system in which these rights can be fully realized; declare that everyone has duties to the community; and prescribe certain limitations on the exercise of rights.

The adoption of the Universal Declaration of Human Rights can be considered a milestone for it was the first time the world community had agreed upon a set of standards for human rights for all men. The declaration is not a legal imperative, it is a moral one. It serves as a yardstick for each of its 48 signers in measuring the progress of human rights in their nation.

At the time of the adoption of the universal declaration, the United States Representative, Mrs. Eleanor Roosevelt, expressed her hope that this would be "an event comparable to the proclamation of the Declaration of the Rights of Man by the French people in 1789, the adoption of the Bill of Rights by the people of the United States, and the adoption of comparable declarations at different times in other countries."

Twenty-one years later, I still share Mrs. Roosevelt's hope.

It is time the Senate began to ratify these human rights treaties that have been pending before this body for so many years.

SMALL BUSINESS LEGISLATIVE AUTHORITY

Mr. JAVITS. Mr. President, I ask unanimous consent that my statement before the Committee on Rules and Administration concerning Senate Resolution 30 be printed in the RECORD. Senate Resolution 30, which would give legislative authority to the Select Committee on Small Business, is a matter of grave importance to the Nation's more than 5½ million small businesses. I wish to acquaint the Senate as to my views on this matter and ask Senators to join with me in support of Senate Resolution 30.

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

STATEMENT OF SENATOR JAVITS BEFORE THE COMMITTEE ON RULES AND ADMINISTRATION

Mr. Chairman, I wish to thank the Committee for their generous invitation to appear before them today to give them the benefit of my views on this most serious subject. Since the Chairman of our committee has already—and so ably—stated the wide range of activities which the Small Business Committee is required to pursue, and there is nothing which I could add, I will therefore be brief.

Mr. Chairman, in my judgment, the facts compel the necessity of having one committee with jurisdiction to hear and report on legislation which principally affects small business. This judgment is supported by more than 5½ million small businesses throughout our country which account for approximately half of this nation's employment and approximately half of its gross national product. I might add that over the last several months, I have had considerable mail from small business concerns in support of S. Res. 30—in fact, I have received 400 such letters since this Monday.

I think that it is important to note that there has been a committee with the mandate to study the problems of small business since 1940. The very fact that the Senate has seen the need to have such a small business committee for 30 years and to make this committee permanent is substantial evidence of how the Senate views its importance.

I ask you now on the Senate Select Small Business Committee's thirtieth anniversary to finish the work which was begun here many years ago. It has remained unfinished for too long—much I fear to the detriment of small business. This committee deserves to be fully responsive to the needs and requirements of small business and to do so it needs to be able to hear and report to the Senate on small business legislation.

We are all aware of the fine job that the Small Business Subcommittee of Banking and Currency has done for small business. However, I submit that the committee was created many years ago as a substitute for what we are requesting today.

The committees and subcommittees of the Senate are becoming increasingly more burdened as the problems confronting our society become more and more complex. It

is not because of lack of desire but simply because of massive work loads that few committees can even physically give the special time and attention to legislation which is small business legislation. This situation often leads to such legislation being inadequately considered or being considered along with other legislation which is not necessarily of a small business nature where it may become submerged in the larger problems and lose its thrust.

Mr. Chairman, small business is the backbone of the American economy and it deserves the paramount attention of the Senate. On behalf of small business I ask you to complete the work which was begun 30 years ago.

FREE CHOICE TELEVISION

Mr. MURPHY. Mr. President, once again I have requested Congress to permit the Federal Communications Commission ruling initiating subscription TV to take effect without further delay. This morning I presented my case for free choice television in testimony submitted to the Communications and Power Subcommittee of the House Interstate and Foreign Commerce Committee.

I firmly believe that subscription TV, or free choice television, as I prefer to call it, is an idea whose time has come. As a supplemental alternative to present commercial television the public would be given the right to choose what they want to watch and how they want to pay for it. The concept of subscription television will not succeed unless the public wants it and buys it. But the Congress, Mr. President, should not block the FCC's decision to allow the concept an opportunity to compete under our free enterprise system.

I look forward to the advent of this new medium and I urge my fellow Members of Congress to join in endorsing free choice television.

I ask unanimous consent that my testimony before the House Interstate and Foreign Commerce Committee be printed at this point in the RECORD.

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

STATEMENT OF SENATOR GEORGE MURPHY

I am indebted to you and your colleagues for permitting me to come over from the other body to address this distinguished subcommittee on an issue of especial importance, both to the nation and the State of California.

I have asked for this time with you today to plead for the case of free choice television.

Nothing could be more inappropriate than the slogan which has been adopted by those who oppose this new concept in home entertainment. They have called their crusade one to "save free TV," and as you gentlemen are well aware, there are few free things in this world—and certainly commercial TV is not among them. All of us who have used the media in our campaigns can agree.

As I am talking with you, four major Washington stations are beaming signals to your television sets and mine. Programs carried by these stations are paid for by the advertising dollars of their sponsors, which pass on this cost to the public. Today nearly every item we buy in the marketplace—from toothpaste to automobiles—bears a part of the cost of its advertising on television. At this moment, then, as in every moment during the broadcast hours, we and our fellow Americans are paying for the programs being put on the airwaves of commercial television. If you and I were addicted to television and our eyes could stand the continuous assault by the set, we still would be able to watch only one channel of the four—so even at the very best, we would be helping to pay for three programs more than the one we were watching. This is so-called "free TV." You are forced to pay for it whether you look at it or not.

Those of us who believe free choice television should be given its chance in the marketplace find it logical to argue that if we are involuntarily required to pay for programs we now do not watch on commercial television, can there be any justice if we are denied the right to select programs we would like to watch and pay for them in a more direct manner than through advertising?

I suggested a moment ago it would be an intolerable strain on the eyes to view television every hour of the broadcast day. But even if the eyes could stand the treatment, it is very doubtful the mind could.

There are many Members of Congress who have commented on the poor calibre of programming on some of today's commercial channels. Sociologists tell us there may be an equation between crime on the streets and crime on the tube. Educators warn us of the enormity of the influence of commercial television on our children. Our recent report estimated that by the time a child enters grade school he has been exposed to more hours of television than he will receive in hours of instruction during four years of college. Religious leaders warn us that in hours alone, television has thirty to forty times more influence on our young than does the church, and the Vice President of the United States begs those responsible to be more concerned about the proper dissemination of the news.

To make the above statistics frightening, you have only to spend an evening at the television set and see the mental level of the pablum or the variety of the violence which is spewed over the airways.

And if you have been one of those who like I have decried the level of the programs which are available to me in the evening hours, let me suggest an additional sobering thought. Perhaps some time in the last few years you have been confined to your home with a cold or flu and done some dial twisting during the daylight hours. While I am in full sympathy with those who worry about the influence of television on our young, the samples I have seen of daytime television makes me worry too about the network's underestimation of the intelligence of America's wives and mothers. But this is not the question before us now.

I do not see how any of us in Congress can on the one hand object to the calibre of present programming and on the other reject the only sensible alternative which has been presented.

What are the guarantees that Free Choice Television will offer a preferable alternative? The obvious answer to that can be found in the pocketbooks of the viewing public. If they don't like it, they won't buy it. Unless subscription television offers programs so superior to those which the public already is paying for through its purchase of advertised products, then it will fail. The demand for excellence, the demand to present a supplement, an alternative, something additional to and better than that which can be had for the turning of the dial—this demand must be met by Free Choice Television before it will succeed in attracting and holding the number of subscribers required to make the system an economic possibility.

Will free choice television bring an end to established commercial broadcasting? Certainly not. As long as there are products to sell, there will be advertisers who will want to use this excellent medium to sell them. Will free choice television take away from the already limited fare of commercial television? In my opinion, the answer again is no. I carefully have studied the rules under which the FCC will authorize free choice TV. These rules offer ample safeguards to insure that subscription television will only be supplemental television, giving the public a wider choice. Under these rules one might question whether Free Choice Television can succeed. But there is no question that they protect established broadcasting.

If, once Free Choice Television is in operation, there develops some infringement on established programming which we have not now anticipated, then it is reassuring to know that, Congress willing, the FCC will still be there and, the public willing, the Congress will still be here to add whatever additional restrictions are necessary.

Furthermore, Mr. Chairman, free choice television will present an opportunity for tens of thousands of new job opportunities. New industries always bring new employment possibilities. When television first entered the scene, theatre owners predicted it would put thousands out of jobs. The contrary was true. Today hundreds of thousands of new employees make their livings through television. It is always thus with new industries and so it will be with Free Choice TV.

Opponents of Free Choice TV raise the false spectre of unemployment in the theatrical industry, when the very reverse will be true.

We have read in the newspapers for many months of the opera companies and symphony orchestras which face doubtful futures of rising costs.

What better way to provide opera and symphony with a new source of income than to make them available to millions through the medium of free choice TV, millions who today are denied the cultural pleasures of fine arts.

As with the cultural community, the entertainment industry will be a beneficiary. Similarly, legitimate theatre and the movie industry will find significant new revenue opportunities in Free Choice Television, which will supply the finances for expanded new productions.

At the beginning of this year, underemployment was rife in my town, Hollywood, the film capital of the world, where, I'm sorry to say, 31% of the industry labor pool was unemployed.

The unemployment fell heaviest on the makeup artists, technicians, electricians, carpenters, and other skilled workmen because film-makers have gone abroad in search of cheap labor and lower production costs.

As a result, the State of California was paying these unemployed more than $400,000 a week in unemployment benefits while suffering a payroll loss of $200,000 a day.

The advent of Free Choice Television—which must under Federal Communications Commission rules—show new first-run movies might not completely cure the Hollywood unemployment problem, but it very likely would open for the industry a vast additional market with significant new sources of revenue for new and more numerous productions.

Because film presentations on Free Choice Television would be uninterrupted by commercials, filmmakers will be encouraged to develop new productions which lend themselves to the home screen—not truncated versions of old movies where only part of the film can be seen or capsule movies tailored to the one-hour time slot, but full-length features, extravaganzas, high-quality pictures permitting the full capabilities of the art.

Instead of the tawdry sexploitation films that now seem to dominate American studio production, Free Choice Television would provide an opportunity to strive for quality drama—films and plays that actors long to play and which a substantial part of the American public would like to see on tele-

vision. It would give the American producer an exact means of knowing precisely the type of film the American audiences want to see.

Freedom of choice—what could be a more inherent right in the free enterprise system. Mr. Chairman, it will be a shocking travesty if we deny the public its right to Free Choice Television. It will be a dark moment for that system if this Congress—or any Congress—ever legislatively denies a legitimate business its proper right to succeed or fail in the marketplace based upon its ability to provide new services for the public. We ask no more—we are entitled to no less.

Again my thanks for permitting me to submit this statement this morning.

A STRONGER POSITION FOR THE GOVERNMENT OF SOUTH VIETNAM

Mr. McGEE. Mr. President, there is good reason to believe, or at least to hope, that the course of events in Vietnam is leading toward a much stronger position for the Government of South Vietnam, militarily and politically.

As has been noted before, the distinguished British tactician, Sir Robert Thompson, has reported to President Nixon that there have been vital improvements in the situation in the Vietnamese countryside, where the Saigon government's authority is being extended and the Vietcong's influence eroded away. Columnist Joseph Alsop recently wrote about these developments in the Washington Post, while another observer, Crosby S. Noyes, of the Evening Star, saw, in speculation of a forthcoming offensive by the Vietcong and North Vietnamese, indications of a Communist plan to try to forestall the Vietnamization of the war in the South.

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

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

[From the Washington Post, Dec. 5, 1969]

BRITON'S REPORT ON VIETNAM MUST HAVE HEARTENED NIXON

(By Joseph Alsop)

Within the U.S. government, there is still an enormous diversity of viewpoint, and even of factual reporting, about the present stage of the war in Vietnam. Some time ago, this drove President Nixon to adopt an expedient without past American precedent, so far as is known.

To get a more solid feel of the real situation, and more particularly the situation in the Vietnamese countryside, the President asked Sir Robert Thompson to go to Vietnam on his behalf. One may guess the President chose this distinguished Englishman as his on-the-spot observer for two linked reasons.

On the one hand, he wanted a man who was free of all entanglement in the debates of our bureaucrats, analysts and policy-makers, which so often reflect debaters' vested interests. And on the other hand, he had to find a man with the solid experience to compare past and present, and therefore to measure progress—or the lack of it.

Sir Robert's qualifications were obvious. He was one of the masterminds of the successful British effort to defeat the Chinese Communist guerrillas in Malaya. In addition, he had intimate knowledge of Vietnam, where he served, from 1961 to 1965, as head of the British advisory mission. And his freedom from any optimistic bias had recently been proved by his decidedly gloomy book, "No Exit From Vietnam."

As an unobtrusive presidential emissary, Sir Robert therefore undertook a long journey in South Vietnam, covering key provinces from northern I Corps to the Delta in the south. As one must do to find the rice-roots realities, he did most of his investigating at the district level where the rice-roots war is fought. And he took along expert assistants, well qualified to check upon and also to amplify the facts that he gathered.

Sir Robert then returned to Washington a few days ago, and "The Thompson Report," officially so-called by the insiders, was formally delivered to the President on Wednesday. What he heard from Sir Robert must have encouraged the President very greatly.

The truth is that Sir Robert found a situation so radically changed that he largely abandoned the pessimism implied by the "No Exit"—that ominous phrase—in the title of his recent book. He did not paint a purely rosy picture, to be sure.

He was far from satisfied, for instance, with the effort made to date to track down and eliminate the higher command groups of the Vietcong. And he warned that if peace came with these command groups still in being, though in refuge, they might later attempt to regenerate a Communist resistance movement.

On the other hand, Sir Robert also found that the entire Vietcong structure was being powerfully and quite rapidly eroded, all over South Vietnam. The rates and degrees of erosion naturally varied from province to province, and even from district to district; but the main features were everywhere the same.

The guerrillas and local force soldiers, who are the "enforcers" of the VC bosses, are everywhere defecting or falling in battle in great numbers; and they are not being successfully replaced. The VC recruiting base is everywhere shrinking drastically, owing to the solid extension of government authority. And in these ways, the VC are progressively losing their former authority over the people of the countryside.

What this means to Hanoi can be gauged from a remark that Gen. Vo Nguyen Giap made to a European correspondent some time ago. "I am not concerned," said Giap, "with the military successes of the US/GVN. I would only become concerned when the US/GVN began to destroy the VC political infrastructure."

That grave cause for concern now stares Gen. Giap in the face. For the command groups, in their mountain and jungle refuges, are no more than the brains of this political infrastructure that Giap spoke of. Without their former apparatus of control of the countryside—above all, without guerrillas and soldiers to impose their will—the VC party secretaries are like Mafia bosses with no gunmen under their command.

Control of the countryside and its population is in fact the primary, most vital mission of this political infrastructure. This is why the VC structure in South Vietnam is Hanoi's primary, most vital asset. And the progressive erosion of this structure, reported by Sir Robert Thompson, is therefore a desperate matter for Hanoi—which probably explains the new infiltration figures that are the second part of the story.

[From the Washington Star, Dec. 2, 1969]

QUESTIONS RAISED ON AIMS OF HANOI'S LEADERS

(By Crosby S. Noyes)

Continuing speculation about a forthcoming Communist offensive in South Vietnam raises a number of questions about the real objectives of the leaders in Hanoi.

The biggest question is whether these leaders really want the complete U.S. disengagement from Vietnam that they have been demanding for so long. A major offensive at this stage might indicate that they do not.

In any event, the expectation of a new Communist push that is something more than the periodic "high-points" of the last few months is widespread. The general estimate is that it will come in the first weeks or months of the new year.

One piece of evidence pointing to this conclusion is an increase in Communist infiltration rates after a six-month lull when replacements of North Vietnamese troops fell below casualty rates in the South. Within the last two weeks, infiltration has risen to about 1,000 men a day, which was the average for the peak year of 1968.

Even so, few American military experts believe that the enemy can mount an attack on the same scale as the great Tet offensive of 1968. The enormous losses taken at that time, particularly in local guerrilla forces, have never been made up. What the enemy can do, however, is to concentrate his strength to bring strong pressure to bear in the north and near the Cambodian border.

The question is why the Communists should decide to increase the level of fighting at a time when American troops are beginning to disengage from Vietnam. In his report to the nation on Nov. 3, President Nixon made it clear that the rate of withdrawal will depend on the level of enemy activity over the coming months. The low rate of Communist infiltration at the time was singled out as an encouraging sign.

The outlook is less encouraging today. A full-scale enemy offensive early next year could radically change the withdrawal schedule. In his November 3 speech, Nixon warned that if remaining American forces were jeopardized by increased enemy action, he would not "hesitate to take strong and effective measures to deal with that situation."

For the Communist leaders deliberately to provoke such measures makes little sense on the face of it. Logically, they might be expected to sit tight and wait for the departure of all American ground combat forces before heating up the war. The possible benefits they might hope for from an offensive at this time would be outweighed by a decision in Washington to halt the withdrawal of troops.

It may be, however, that the leaders in Hanoi have a good deal more faith in the success of "Vietnamization" than many Americans have. They may, in fact, believe that a continued American involvement in Vietnam is their only hope of reaching a satisfactory settlement of the war.

The Communists are very well aware of the very real progress that has been made over the past year in the program of rural pacification—which is a polite word for the destruction of the Communist infrastructure in the villages and hamlets. They know that the government in Saigon is consolidating its control over the great majority of the population.

These leaders may have reached the conclusion that, given a year or two of relative respite, the Saigon government will be too strong to be challenged successfully either on the battlefield or at the conference table. It also will be very much less vulnerable to pressure from Washington after the departure of American troops.

In this situation, the Communist leaders know that they could kiss goodby any hope of playing a significant role in the future political life of South Vietnam. Their major hope today is that the U.S. government, under pressure from anti-war sentiment, will impose on Saigon the kind of regime that they demand. A new Communist offensive at this stage, which might bring a halt in American troop withdrawals, could well be aimed at this result.

PUBLIC WORKS IN MARYLAND FOR FISCAL YEAR 1970

Mr. TYDINGS. Mr. President, last Thursday the Senate accepted the conference report for the fiscal year 1970 public works appropriations bill. This bill contains five measures upon which I would like to comment briefly.

The first, and perhaps most important, is the $800 million appropriation for grants for the construction of water quality treatment facilities. This will make a significant contribution to our efforts to restore the quality of our waters. Water pollution is a major problem confronting our society, as everyone by now realizes. To achieve clean water requires technological skill and plenty of money. We already have the former. This bill will begin to provide us with the latter.

Our Nation owes a vote of thanks to the distinguished senior Senator from Louisiana who was responsible for an appropriation $586 million above the administration's budget request and $836 million above the House figure. Senator ELLENDER recognized the need for these funds, and I commend him for his leadership and foresight.

The appropriations bill contains $6.5 million to continue the enlarging of the Chesapeake & Delaware Canal. The canal, linking the Delware and Chesapeake Bays, is a major route of North Atlantic merchant ships and provides a direct and moneysaving passage between New York and Baltimore. With the new larger ships now coming into service, particularly the container vessels, the canal's enlargement is vital for Maryland's maritime interests and thereby crucial to the State's continuing economic prosperity.

I regret the full $10.8 million, which could be used for the project, was not appropriated. I thank the senior Senator from Louisiana for the Senate-approved $7 million appropriation and understand completely the pressures he was under in the conference to compromise. The $6.5 million appropriation is insufficient to accelerate the completion date of the canal project. This I regret. But it does maintain the pace of the work going on and, in a time when other projects have been cut back or eliminated for reasons of economy, I am pleased that the canal work will continue at its current momentum.

The Bloomington project in western Maryland receives $1.4 million in this bill. This will provide money to begin actual construction on this important dam. Bloomington will provide flood control, water supply, and recreation for the Upper Potomac Basin. It is a key project for Maryland. It is also vital for the Metropolitan Washington region, providing long-term water supply for the 2 million people of Maryland, Virginia, and the District of Columbia.

One important project beneficial to Maryland receives but a token payment in this bill. I am referring to the Chesapeake Bay model. Authorized a few years ago, the model is now expected to cost $15 million. It will enable us to understand more fully the hydraulics of one of the most complex and important estuaries in the world. The Chesapeake is vital to not only Maryland's well-being, but the Nation's as well. It is a natural resource of remarkable versatility. Yet its ecological stability is constantly endangered. The bay is threatened by increases in both pollution and population. We must know more if we are to protect and develop it wisely. The model will help provide us with the knowledge required. Yet only $30,000 is allocated for fiscal year 1970. This does not even allow the model to get off the ground. It is meaningful only to the extent that it provides an accompanying study with some money to continue. The model itself will never be built at this level of funding. If we are to have the model, we must appropriate far larger sums. The Chesapeake Bay model needs a yearly appropriation of $2 million, not a sum in the thousands.

The final project I would like to mention is one that truly benefits the entire Nation. It is the national shoreline study authorized last year by legislation I prepared. The study will give us an overview of our coastal erosion problems and recommend priority projects and a national program to combat erosion. The $150,000 provided in this bill starts the study off. A substantial increase in funding will be needed next year if the study is to be completed on time. I have brought this to the attention of the distinguished chairman of the Appropriation's Subcommittee on Public Works and he was most understanding. I expect to request the needed additional funds next year and hope that they can be provided. The study will make a major contribution to solving a significant problem in the coastal zone.

THE BUDGETARY PROCESS

Mr. TOWER. Mr. President, I think that it is an appropriate time to stop to consider for a moment the overall Government framework of expenditures and revenues within which we operate, and to consider whether we might improve the system in the next and succeeding years so that ill-considered, patch-work revenue bills and appropriations bills, such as the tax bill we have just debated, need not be foisted upon our constituents and our economy in the future.

Our major problem in Congress, it appears to me, is that of controlling expenditures. We can attribute the inflationary impetus in our economy today and the high taxes we pay to the lack of a thorough system of Government expenditure controls, and the related lack of a comprehensive, systematic approach to appropriation and tax legislation.

We have launched into major Federal expenditures in the social services sector in the decade of the 1960's which will total over $80 billion in this fiscal year alone. Of this incredibly large sum, I would guess that at least half is wasted and used ineffectively due to the lack of a thorough budgetary process and due to the multiplicity of Federal programs and their associated redtape.

I, and, I am sure, all other Senators, would like to see the social problems we face today conquered—slums, racial strife, crime, hunger, congestion in the cities, and water and air pollution. But to do so we must marshal our scarce resources better than we have in the past. We must control expenditures and make every tax dollar spent by the Government generate a dollar's worth of real benefit to the American people. And we must not allow our desire to give our constituents every tax break we can to result in closing off the critical source of capital in our economy, corporate retained earnings, when that source of capital is essentially what finances innovations and productivity increases in our economy.

I would plead, therefore, with my distinguished colleagues in the Senate and in the House that we more carefully plan our future appropriation and tax programs to make more effective use of our taxpayers' moneys, and in particular to coordinate the budgeting process of the Bureau of the Budget with our expenditure planning in Congress. To this end, we should attempt to cooperate with President Nixon in his recent moves toward rationalizing the expenditure process, such as his efforts to cut redtape in the Federal programs under the executive branch, to consolidate programs, and to expand the revenue-sharing concept which would eliminate so much waste in the maze of Federal programs. Also, we should consider the need to strengthen the legislative expenditure ceiling concept and the need for a "zero-base" budgeting process, whereby officials in charge of programs must justify all of their department's budget and not merely the increase over last year's budget.

I call to the attention of the Senate and House the recent speech by Dr. Arthur Burns to the Tax Foundation, in which he outlined the basic approach of the executive branch toward the rationalization of the expenditure-appropriation-tax process. I ask unanimous consent that his speech be printed in the RECORD.

I hope that Members of Congress will join with me in pursuing better structuring of the expenditure-appropriation-tax process in the next session of Congress and to help the President effect his plans in this regard.

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

THE CONTROL OF GOVERNMENT EXPENDITURES

(Address by Arthur F. Burns, counsellor to the President, to the Tax Foundation)

This year the Congress has devoted a great deal of attention to tax legislation. Besides aiding the fight against inflation by extending the income tax surcharge temporarily, the Congress has been heavily engaged in writing a tax reform bill that is of major significance to the American public. If the bill survives in something like its present form, some troublesome inequities under existing law will finally be corrected. However, the relative tax burden borne by individuals and corporations will also be changed, with corporate income tax liabilities gradually going up about 5 billion dollars by 1975 and individual income taxes coming down 12 billion dollars.

This projected shift in the tax structure will favor consumption at the expense of capital formation. Such a development will be useful in the short run by helping to cool off the business investment boom that is still under way, but it may damage prospects

for the long-term growth of our economy. We surely cannot afford to take capital formation or economic progress for granted. If our economy is to grow and prosper in the future, as it both can and should, business enterprise may well need the stimulation of an improving tax climate.

In recent times, our nation has moved rapidly towards the welfare state, such as various European countries previously developed. Unlike these countries, however, we also devote an enormous part of our resources to meeting the needs of an intricate and far-flung defense system. Thus far, the prodigious productivity of American industry has made it possible to finance liberally both our defense needs and the social services of government. But in order to continue to support the growing scale of our public consumption without doing injury to private consumption, the productivity of our factories, mines, farms, construction enterprises, and service trades may have to improve more rapidly than in the past. This will not be accomplished without substantial and increasing investment in new and better tools of production. The projected shift in the structure of taxation therefore seems undesirable to me, and I trust that the President's Task Force on Business Taxation will soon point the way to a better balance in our tax system.

I do not know at precisely what point the burdens of taxation will materially serve to check our nation's economic progress, but I also do not think it wise to test this issue too closely. The trend of governmental spending and taxes in the past forty years has been sharply and inexorably upward. In 1929, government expenditures at the Federal, state, and local levels amounted to about 10 percent of the dollar value of the nation's production. This fraction rose to about 20 percent in 1940, to about 30 percent in 1960, and to about 35 percent this year. The broad trend of taxation has been very similar. With over a third of our nation's output already moving into the hands of the tax collector, it seems hardly prudent to contemplate any further increase in the level of taxation. And yet, unless we bring government expenditures under better control than we yet have, the modest over-all reduction of tax rates that the tax reform bill projects will prove abortive and further increases in the level of taxation may become unavoidable.

As our nation's economy has grown and as our political democracy has widened, the responsibilities assumed by government have kept increasing. In fiscal year 1962, the rising curve of Federal expenditures first crossed the 100 billion dollar mark. It now appears likely that the 200 billion dollar mark will be crossed the next fiscal year; so that we will be adding as much to the Federal spending rate in a mere nine years as it took nearly two centuries to achieve previously.

The explosive increase of Federal spending during this decade is commonly attributed to the defense establishment, or more simply to the war in Vietnam. The fact is, however, that civilian programs are the preponderant cause of the growth of the Federal budget. When we compare the budget of 1964 with the estimates for this fiscal year, we find that total Federal spending shows a rise of 74 billion dollars, while defense outlays are larger by only 23 billion. If we go back to 1953, when the Korean war ended, and take into account state and local expenditures as well as Federal, we find that defense outlays have been responsible for only about one-sixth of the vast increase in the cost of government that has occurred since then.

Thus, the basic fiscal fact is that spending for social programs now dominates our public budgets. Although the Federal government's direct involvement in problems of social welfare is a recent development, it is already huge and is growing at a fast rate. This fiscal year, programs for education, manpower, health, income security, housing, community development, and crime prevention will cost over 80 billion dollars—a sum that exceeds all the spending done by the Federal government in the peak year of the Korean war. Federal aid to the poor will alone cost 27 billion dollars this year, in contrast to 12 billion in 1964. Grants in aid to states and localities will cost about 25 billion dollars, in contrast to 15 billion in 1967, 10 billion in 1964, and 5 billion in 1958.

This upsurge of Federal spending is a response to the economic and social difficulties that afflict many of our communities—witness the slums, ghettoes, racial strife, poor public schools, teenage unemployment, drug addiction, poor health, student disorders, inadequate transportation, traffic congestion, air and water pollution, and unsafe streets and parks. The Federal government has tried to solve these complex problems by spending large sums of money on projects that have often been hastily devised. Hundreds of grant-in-aid programs dealing with health, education, welfare, and other local needs were established in quick succession. Several regional commissions were established to seek better balance in economic development and social improvement. An Economic Development Administration was established to aid local communities, both urban and rural, that suffer from excessive unemployment or inadequate incomes. More recently, a Model Cities Program was established, aspiring to achieve what our best city planners can contrive. By proceeding in all these directions, we have created a costly governmental maze that involves much duplication and waste, that often hampers the constructive efforts of local officials, and—perhaps worst of all—that practically defies full understanding or evaluation.

Nowadays, many local government officials, instead of grappling with the most urgent needs of their communities, devote their finest energy to maximizing and husbanding the Federal grants that happen to be available. With over 600 categorical programs of Federal aid to choose from, there is plenty to keep them busy. Many of the programs involve tedious procedural steps extending over a number of months before a community can learn whether Federal funds are to be granted for its proposed project. Each program is equipped with its own set of administrative requirements involving endless forms and reports. If a local official attempts to draw upon several funding sources to help finance a neighborhood project, he may be confronted with a mass of complex application forms weighing several pounds, with Federal processing steps that may take well over a year to elicit a "yes" or "no" response, and with stringent requirements for hundreds of detailed reports. Further, this official will usually have to work with Federal representatives scattered in a number of different cities in order to arrange the project.

I am informed by the Bureau of the Budget that one Federal program requires over a hundred different kinds of forms and reports; that a grant involving $1,000 may require over 30 major Federal agency steps, including review by a 15-man advisory committee and headquarters approval; that a department of one state has counted 120 different reports that it is required to submit to a particular Federal agency, many of them on a monthly or quarterly basis; and that there are numerous instances in which Federal, state, and local governments make independent studies of the same community without one agency knowing what the other is doing or having an opportunity to share in the results of the other studies. The mere listing of all Federal requirements imposed on states and communities would be so voluminous that it has never been done.

As a result of this administrative morass, various Federal programs are half smothered in paper. Employees at all levels of government are required to devote time to detailed paper work which would be better devoted to rethinking program objectives or assessing the extent to which present objectives are being met. More important, help may not reach the people who need it until months—sometimes years—after it should, with much of the money meanwhile siphoned off by the bureaucracy. To give only a few outstanding examples, neither the achievements of the compensatory education program, nor of the urban renewal and slum clearance programs, nor of the public assistance programs have come very close to the expectations of our lawmakers.

In view of the explosive growth of Federal spending and the ineffectiveness or inefficiency of much of it, I am inclined to think that the need for expenditure reform may be even greater than the need for tax reform. One of the advantages of a new Administration is that it can move with energy to change the direction of governmental policy. President Nixon responded to this opportunity by taking major steps to win control over Federal spending. Needless to say, the rapid rise of the consumer price level has been the most troublesome economic problem facing the nation this year. In view of the inflationary pressures in our markets for goods and services, it was clearly important that the Federal government curb its spending beyond the earnest move to frugality that the previous Administration made in its closing days. In all, reductions of 7½ billion dollars from the January budget were therefore ordered by the President for this fiscal year. These reductions were widely distributed among government agencies, with 4.1 billion allocated to the Defense Department and 3.4 billion to the rest of the government. Moreover, when Congress later passed or considered legislation that foreshadowed an expenditure total well above the revised budget of $192.9 billion that the President had submitted, he firmly announced that he would try his utmost to see to it that Federal finances continue to be subject to the ceiling that he had imposed. Later in the year, in order to deal with the special problem of runaway construction costs, the President ordered a cutback of 75 percent in Federal construction contracts.

Administrative steps were also taken by the President to achieve greater efficiency in government spending. In March a carefully planned effort to cut red tape got under way. As a first step, the several agencies most closely concerned with human resources were directed to adopt common regional boundaries and to locate their regional offices in the same cities. Further, a review was started of the several hundred Federal assistance programs, with the objective of simplifying procedure, cutting down on the paper work, and shifting responsibilities to the field so that decisions could be made both more expeditiously and by officials who are in closer touch with the local problems.

The Administration has also sought legislation to correct the deficiencies of the grant-in-aid programs. In order to give local officials greater flexibility to meet their priority needs, the President has requested authority to consolidate existing grant-in-aid categories, subject to a Congressional veto within 60 days. Moreover, as legislation has moved through the Congress, the Administration has been alert to the opportunity of converting narrow categorical grants into block grants for broad functional areas. In line with this policy, proposals for grant consolidation were advanced in connection with legislation on hospital construction, on elementary and secondary school education, and on manpower training services, as well as through the appropriation route.

But by far the most important as well as

the most dramatic step that the President has taken to reform expenditure policy is his proposal to the Congress to inaugurate a system of revenue sharing. This proposal marks a milestone in Federal-State relations. It seeks to decentralize governmental power. It seeks to restore the balance that existed in earlier decades between the state capitals and the national capital. Or to be more precise, while it seeks to extend additional Federal assistance to state and local governments, it insists that this be done in a manner that will enable local officials to attend to urgent problems within their own jurisdictions as they deem best, without being subjected to rigid Federal controls or requirements.

The leading features of the Administration's revenue sharing proposal are as follows: First, in view of budgetary constraints, the revenue sharing fund will be limited in fiscal 1971 to a half billion dollars, but will subsequently grow fairly rapidly and reach 5 billion dollars by the mid-seventies. Second, the distribution of the fund among the states will be based on a simple formula that assigns primary weight to population, but also gives some weight to tax effort. Third, the distribution within each state between the state government and the localities will be likewise based on a formula, so that each unit of government within a state will be assured a share that is proportionate to its own tax revenues. Fourth, no restriction will be placed on the use of the funds made available by the Federal government; in other words, each state, county, city, or town will rely on its own judgment and use the money for education, health services, parks, law enforcement, or some other way, as it deems best.

The precise details of this revenue sharing plan grew out of detailed discussions among members of the Administration, Congressmen, Governors, Mayors, and county officials. In the course of these discussions the argument was sometimes encountered that revenue sharing may lead to fiscal irresponsibility, since local officials may be careless in using funds that they did not have to raise from their own constituents. This argument cannot be dismissed. It might in fact be decisive if the practical choice were between levying local taxes or Federal taxes. By all indications, however, Federal financial assistance to the states and localities will continue to grow, and the only real question is whether Federal grants will lead to more or to less centralized control. In taking a definite stand for decentralization, the Administration has enunciated a policy whose wisdom is now widely recognized by liberals as well as conservatives within our two major political parties.

As a result of the careful preparation of the Administration's revenue sharing plan, it has already won the general approval of the Governors Conference and also of the leading national organizations of mayors and county officials. The Administration's own thinking on the subject is not rigid, and it will entertain any reasonable proposal for change that would facilitate Congressional approval. In particular, the Administration would welcome an enlargement of the projected revenue sharing fund, provided categorical grants were correspondingly curtailed. If that happened, revenue sharing would grow more rapidly than presently contemplated, and the decentralization of government—which has become so vital to order and efficiency in the public economy—would be speeded.

This sketch of recent progress toward Federal expenditure reform should be reassuring to responsible citizens, but it certainly leaves no room for complacency. Much of the needed legislation has yet to be passed. Many of the administrative improvements are still in an early stage and remain to be tested. The ceiling of $192.9 billion on this year's expenditure is not entirely secure. True, the curve of Federal spending is now rising at a much slower pace than in recent years, but the improvement would be less impressive if the various government-sponsored financial agencies were all included in the budget. And, as far as I can judge, the growth of population, the need to improve our social and physical environment, and the widening concept of governmental responsibility will almost inevitably lead to large additions to Federal as well as state and local expenditures in the future. There will therefore be a continuing need to control governmental spending, first, in order to avoid strain on our physical resources of labor and capital, second, in order to assure the continuance of a vigorous private sector, and, third, in order to maintain pressure for discriminating judgment on priorities as well as for economy of execution in the public sector. These are difficult requirements and they will not be met without further significant expenditure reform.

One major step toward reform was taken last year and again this year by Congressional enactment of a ceiling on expenditures. A legislative budget is a radical departure in budget-making, and its significance should not be minimized by the rubbery texture of the ceiling. In the first place, the vigorous discussion surrounding the legislative ceiling has of itself served to dampen enthusiasm for larger spending. In the second place, the rubbery ceiling of today can become a rigid ceiling tomorrow. If the Congress moves in this direction, its fragmented approach to appropriations, which will doubtless continue, need no longer run up Federal spending as it has commonly done in the past.

To be sure, the individual appropriation acts may imply a much larger expenditure total than had previously been legislated. In that event, the Congress would in effect say to the President: "You are the manager of our national finances. We fixed a ceiling on expenditures earlier in the year, after considering your budgetary recommendations and making our own best judgment of what the national interest requires. But there are several hundred of us; each of us is subject to heavy pressure for appropriations that seem vital to our constituents, and we find it impossible in the time at our disposal to trim individual appropriations so that they be consistent with the expenditure ceiling. In view of our inability to agree on priorities, we assign this responsibility to you; but we naturally reserve the right to challenge your actions by new legislation." Such a mandate by the Congress would, of course, not make the President's job any easier; it could well lead at times to uneconomical cutbacks; and it might even mean that we will have only one-term Presidents in the future. However, by enabling the members of Congress to satisfy both their conscience and their constituents, such a mandate would probably assure that total expenditure is kept under decent control.

A second reform of vital significance would be adoption of the concept of zero-base budgeting. Customarily, the officials in charge of an established program have to justify only the increase which they seek above last year's appropriation. In other words, what they are already spending is usually accepted as necessary, without examination. Substantial savings could undoubtedly be realized if both the Budget Bureau examiners and the Congressional appropriation committees required every agency to make a case for its entire appropriation request each year, just as if its program or programs were entirely new. Such a budgeting procedure may be difficult to achieve, partly because it will add heavily to the burdens of budget-making, and partly also because it will be resisted by those who fear that their pet programs would be jeopardized by a system that subjects every Federal activity to annual scrutiny of its costs and results. However, this reform is so clearly necessary that I believe we will eventually come to it. I regard President Nixon's request of the Budget Bureau this year for a list of programs judged to be obsolete or substantially overfunded as a first step toward zero-base budgeting.

Several other reforms that I can only mention also deserve serious attention. First, earmarking of funds is often a dubious practice and should be carefully reappraised by the Congress. Second, agency heads should be subject to a Presidential requirement that if they request additional funds—whether for new or old programs—after the budget has been transmitted to the Congress, they must as a rule give up an equal amount of money from their ongoing activities. Third, new programs should be typically undertaken on a pilot basis and not launched on a national scale until their promise has been reasonably tested. Fourth, the law requiring that the cost of new programs be projected five years ahead when they are first presented to the Congress should be strictly enforced. In addition, comprehensive five-year budgetary projections should be constantly maintained by the Budget Bureau of the President's guidance. Fifth, I think that it would be useful to rotate the personnel of the Budget Bureau among its major divisions, so that the key examiners can periodically shed their preconceptions or frustrations and approach with a fresh eye the financial concerns of the agencies that are newly assigned to their scrutiny.

In addition to institutional reforms such as these, effective control of public expenditures will require larger reliance on volunteer efforts for dealing with our great social ills. It will also require thorough, realistic, and penetrating study of the promises, costs, and achievements of individual governmental programs. Although Federal agencies, particularly the Bureau of the Budget, need to augment their evaluative work, some doubt will always surround research that is carried out by agencies which originally advocated or subsequently supervised the programs under study. There is a great need therefore, for expenditure studies by organizations that are independent of government and have no direct stake in any of the programs. In view of its preeminence in fiscal research and public education, the Tax Foundation is especially well equipped to organize teams of economists, accountants, political scientists, and management experts for the concrete study and evaluation of some of the major branches of Federal expenditure.

I hope that the Trustees of the Tax Foundation will be able to find a way of making this additional contribution to good government. If you undertake to do so, I assure you that the evaluation teams you send to Washington will receive a very warm welcome.

PROPOSAL FOR A SELECT COMMITTEE ON TECHNOLOGY AND THE HUMAN ENVIRONMENT

Mr. MUSKIE. Mr. President, a critical issue of national concern is the extent to which the effects of new technologies are examined prior to their introduction into the environment. Today's environmental crisis exists because past technological decisions were made without adequate consideration of the environmental effects of those decisions.

It is for this reason that I have recommended for some time the establishment of a Select Committee on Technology and the Human Environment.

It is for this reason that recently passed Senate legislation included a provision establishing an Office of Environmental Quality in the White House.

And it is for this reason that the Subcommittee on Air and Water Pollution continues to hold investigatory hearings

on the environmental effects of new technology.

Recently the subcommittee held hearings on the underground use of nuclear energy for excavation and other purposes. There is a brief discussion of the value of those hearings in the December 1 issue of Gershon W. Fishbein's "Environmental Health Letter." I invite the attention of Senators to that report and ask unanimous consent that it be printed in the RECORD.

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

SENATE HEARINGS REFLECT FUNDAMENTAL CONCERN IN ENVIRONMENT

The daily press missed a good story when it failed to give attention to the hearings Nov. 18–20 before the Senate Air and Water Pollution subcommittee on S. 3042, which would provide an independent evaluation of the potential environmental effects of underground uses of nuclear energy.

The issue, however, was much bigger than the immediate subject at hand. It addresses it self to one of the most fundamental issues confronting those with the responsibility of protecting the public in the man-environment interface.

Basically, it involves the question of how to assure pre-marketing clearance of technological innovations before they become hazardous to the public or upset the ecology of the land, air or water. Such an assessment should be kept in balance, with the benefits and risk clearly weighed, in determining in advance by public agencies whether man will be the beneficiary or the victim of technology. Secondary to this issue is the related concern of whether an agency whose primary mission is to develop and foster a resource or an industry can simultaneously police it.

Such were the stories behind the story in Room 4200 of the New Senate Office Building. But even the witnesses on the substantive issue would have made good copy. Dr. John W. Gofman of the University of California presented testimony indicating that "current radiation exposure guidelines are indeed dangerous—much too high."

"Any release of radioactivity associated with Plowshare or other programs to regions where humans or other members of our ecosystem can possibly be exposed should be documented by a truly independent agency and made immediately available to public sources for independent review. It may well turn out that attention to injury to other members of the ecosystem may be of greater long-range relevance to man than the immediate attention to man with extensive neglect of the ecosystem which supports his life." Dr. Gofman's view was disputed by Dr. C. L. Comar of Cornell.

Dr. Edward P. Radford of Hopkins and Dr. Robert Platt of Emory University each presented testimony which put the proposed legislation beautifully into the man-environment context.

Note: Still languishing is a possible legislative solution to the need to get more facts on technological innovations as they might affect man. Such a solution is contained in S. Res. 78, sponsored by Senator Muskie and others, to create a Select Senate Committee on Technology and the Human Environment. Although it was not intended that way, the information developed in the hearings on S. 3042, added to the urgency of enacting the Select Committee. Isn't it about time to enact this simple resolution?

COMMUNIST ATROCITIES AT HUE

Mr. MURPHY. Mr. President, the Los Angeles Times of December 6 contains a poignant and thoroughly documented account by Times staff writer Robert S. Elegant of Communist atrocities committed at Hue. Mr. Elegant had interviewed Douglas Pike, a foreign service officer and author of "Vietcong," the book considered to be the single most authoritative and exhaustive study of communism in South Vietnam.

In these days when alleged atrocities by one American group have garnered so much publicity, Mr. Elegant and the Los Angeles Times have performed a service by printing the story of known, proven actions committed by the Vietcong Communists that are too terrible for civilized people to imagine.

An important point to remember, Mr. President, is that the alleged American atrocities at Mylai, if true, were committed against all instructions of the American Government. The known atrocities at Hue were carried out as part of the officially ordered plan and design to establish a Communist government in South Vietnam.

I wish to call the attention of Senators to the facts of the Hue massacre as described by Mr. Pike. I ask unanimous consent that the Los Angeles Times article entitled "Hue Massacre: Effort To Destroy Entire Society," written by Robert S. Elegant, be printed in the RECORD.

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

[From the Los Angeles Times, Dec. 6, 1969]

HUE MASSACRE EFFORT TO DESTROY ENTIRE SOCIETY—AUTHORITY SAYS MURDERS WERE ACCORDING TO PLAN AND PERHAPS 6,000 DIED

(By Robert S. Elegant)

HONG KONG.—"A squad with a death order entered the home of a community leader and shot him, his wife, his married son and daughter-in-law, his young unmarried daughter, a male and female servant and their baby. The family cat was strangled; the family dog was clubbed to death; the family goldfish were scooped out of the fishbowl and tossed on the floor."

Douglas Pike, a leading authority on communism in Vietnam, reports that scene after conducting an intensive investigation of events in Hue when the Communists held the old imperial city for 24 days in February 1968, and slaughtered what he estimates was almost 6,000 civilians for political purposes.

"When the Communist squad left," he continues, "no life remained in the house. A 'social unit' had been eliminated."

FOREIGN SERVICE OFFICER

Pike, a Foreign Service officer, is the author of "Viet Cong," the book generally judged the single most authoritative and exhaustive study of communism in South Vietnam.

The extinction of the community leader's family "was not due to rage, frustration or panic," Pike said. The "execution" was part of what Pike identifies as "Phase II" of the continuously sanguinary Communist occupation, when "cadres believed for a few days that they were permanently in Hue—and acted accordingly."

He notes that the Viet Cong thereupon launched "a period of social reconstruction, Communist style. Death orders went out against 'social negatives,' individuals or groups who represented a potential danger or liability."

There was no discernible personal animus, despite the wanton cruelty that tortured the pets.

"This was quite impersonal," Pike said. "It was not a blacklist of individuals but a blacklist of titles and positions in the old society. It was directed not against people, but against 'social units'—religious organizations, political parties and social movements like women's and youth associations."

5,800 DEAD OR MISSING

By Pike's count, based on his own research and local estimates, 5,800 Hue civilians are dead or missing, and the missing are not likely to reappear. In addition, 1,800 civilians were hospitalized, making a total of 7,600 civilians killed, abducted or injured by the Communists.

Pike said almost all the killing was dictated by political aims and ordered by political commissars. A few civilians, not more than several hundred at most, were killed or injured in the course of battle.

So far, 2,780 bodies have been recovered from the mass graves where the Communists carefully hid their victims. Further finds are made daily. But Pike does not expect all the bodies to be recovered because the Communists went out of their way to conceal the mass graves.

"The number of deaths would probably have been higher but for the limitations of time and circumstances," he said.

Out of approximately 75,000 persons under effective Communist rule for about three weeks, 7,600 became casualties. Even allowing the widest latitude for battle casualties and inadvertent killings, that means not less than 5% of the civilian populace and perhaps as high as 10% were deliberately slaughtered.

Pike, now stationed in Tokyo with the U.S. Information Service, lived in Vietnam for eight years before writing "Viet Cong." During a leave of absence he returned to Vietnam, as he does periodically, and spent more than a week early this November pursuing his research in Hue.

LENGTHY CONVERSATION

His findings and conclusions as reported here are abstracted from a lengthy personal conversation and the draft of his report on his investigations at Hue.

After his research, Pike believes that the massacre of Hue will be the pattern for nationwide action should the Communists conquer South Vietnam. He bases that conclusion upon the fact that the massacres were deliberate acts of policy, rather than random individual deeds.

He divides the Communist campaign against the civilians of Hue into three periods:

Phase I occurred during the first few days of the occupation, when the Viet Cong did not expect to stay but wished to make an example and to "break the enemy's administrative structure."

"Civilian cadres," Pike said, "accompanied by firing squads executed key individuals to weaken governmental administration following Communist withdrawal. This was the blacklist period, the time of the drum-head court.

KANGAROO COURTS

"Cadres with clipboards bearing lists of names and addresses summoned various 'enemies of the revolution' to kangaroo courts. Public trials usually lasted about 10 minutes, and there were no known not-guilty verdicts. Punishment, invariably execution, was meted out immediately."

Aside from "particularly venomous attack on Hue intellectuals," who despised communism as a philosophy, Phase I followed normal Communist procedure.

Phase II was the period of "social reconstruction." In order to "build a new social order, it was necessary to purge the old order." The "social negatives" were eliminated. Anyone who might stand in the way of the Communists' consolidating their hold and imposing their own rule was killed.

During Phase II approximately 2,000 of the 5,800 died, including a family that was slaughtered even to its cat, dog and goldfish.

WORST PHASE

Phase III, however, was the worst. During the last week of their stay, the Communists knew they would be forced to withdraw. They were determined to leave no witnesses who might testify against them or identify the 150 clandestine Communist cadres who had "surfaced" to rule Hue.

Most victims were killed in batches during this period. At the Sand Dune Grave they were tied together in groups of 10 and cut down with sub-machine guns.

Pike adds: "A favorite local souvenir is a spent Russian machine-gun shell taken from a grave. Frequently, the dead were buried in layers of three or four, making identification particularly difficult."

He believes the Hue massacres were different from other Viet Cong terrorism "not only in degree but in kind."

NEW GOVERNMENT

It was not the quick terror used to build Viet Cong morale or to frighten the populace but the slow, intensifying terror intended to create the basis of a new government.

"There was no agonized outcry, no demonstrations at North Vietnamese embassies around the world," Pike said. "Lord Russell has not sent his 'war crimes tribunal' to take evidence. In tones transcending bitterness, the people of Hue say the world does not know what happened or, if it knows, doesn't care."

There was, indeed, a remarkable lack of reporting on the Hue massacres, in part because the Communists had hidden their victims so well. However, as Pike indicates, there is much apathy regarding Viet Cong atrocities.

They are not news. Yet bodies have been turning up since March 1, 1968.

"In one place, a farmer walking across the sand dunes tripped over a piece of wire sticking out of the mud. In ire, he jerked at it. Out of the sand at the end of the wire came a bony hand and arm."

Victims' wrists had been bound with wire before execution.

Teams are still exploring the Hue area wearing surgical gloves, well doused in alcohol, their faces masked against the stench. They dig systematically, using archeological principles . . . with a shallow slicing movement."

Local techniques have appeared, Pike said, for digging has practically become a local industry.

"One old man has gained fame for his ability to identify acquaintances by the shape and feel of their skulls. Bright green grass is an almost certain sign that bodies lie underneath. Children, like one 14-year-old boy, have pinpointed bodies they watched the Communists bury."

In one find, "only 250 full skulls were found, but parts of many others had been washed to the mouth of the stream that was the execution ground. Among the dead were four Vietnamese and two foreign priests. Killed at the same time were a West German pediatrician and his wife who had devoted eight years to teaching medicine at the Hue Medical School and delivering babies at the Municipal Hospital. Two other West German doctors were also killed."

The pattern was clear. Anyone, Vietnamese or foreign, who sustained the old society in any way, political or social, was doomed.

What happens to a city that suffers so?

Pike believes that, despite material recovery, there are "deep recesses in the mind of Hue that will never again know the sun."

Resentment is still widespread against Saigon and Washington, which could not prevent the orgy of slaughter.

LOOK INTO FUTURE

"But spending an evening with survivors," Pike said, "one is submerged in hatred against the Communists like a thick fog. The fence-sitters and the advocates of nonviolence are gone. Hardly anyone did not find a relative or intimate friend in a Communist grave. Hue's implacable hatred of communism is as fixed as a mathematical law."

And the lesson of Hue, if there is one?

Pike believes it is clear: "If the Communists win decisively, all foreigners would be expelled from the south, particularly hundreds of newsmen. A curtain of ignorance would descend. Then the night of the long knives would begin.

"A new order is to be built. While the war was long, so are memories of old scores. All political opposition, actual or potential, would be eliminated. They would eliminate not the individual (for who cares about individuals?) but the latent danger to the dream, the force that might someday even inside the regime dilute the system," Pike said.

"Little would be known abroad," he concluded. "The Communists would create a silence of death, and the world would call it peace."

FIFTIETH ANNIVERSARY OF OFFICE OF LEGISLATIVE COUNSEL

Mr. JORDAN of North Carolina. Mr. President, as we approach the end of this session, I think it is time for the Senate to give due recognition to the fact that this year has marked the 50th anniversary of one of its most important—though largely unsung—supporting units.

I speak of the Office of Legislative Counsel which, I think it is fair to say, has helped determine the form of virtually every major law adopted since it was established.

As chairman of the Committee on Rules and Administration. I have perhaps more reason than some other Senators to observe the activities of this office in recent years, and I have been tremendously impressed by the skill, efficiency and dedication of Senior Counsel John Herberg and the members of his staff.

Their performance, I think, is particularly outstanding in view of the fact that they are doing the job now with the same number of people authorized 20 years ago despite the vast increase in the volume and complexity of the issues with which they now must deal.

Every Senator who has served in the last half century is indebted, at least in some part, to the succession of attorneys who have, without public recognition, served so well in this office in the drafting of sound legislation.

By the same token, these anonymous shapers of the law deserve the thanks of the country as a whole.

In order that their service be given proper recognition I ask unanimous consent to have printed in the RECORD a statement describing the origin, development, functions, and operations of the Office of Legislative Counsel.

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

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

ESTABLISHMENT

The offices of Legislative Counsel of the Senate and of the House of Representatives, originally referred to collectively as the Legislative Drafting Service, were created by an Act of Congress approved February 24, 1919, "to assist in drafting public bills and resolutions or amendments thereto on the request of any committee of either House of the Congress" (40 Stat. 1141).

The establishment of the service as an agency of the Congress followed a two-year demonstration to committees of the Congress of the value of specially trained legislative draftsmen in formulating technically effective legislative measures. The demonstration was conducted through the services of of a skilled draftsman, Middleton Beaman, furnished by the Legislative Drafting Research Fund of Columbia University (29 Col. L. Rev. 379, 385–386).

The Act of February 24, 1919 provided for the appointment of two draftsmen "without reference to political affiliations and solely on the ground of fitness to perform the duties of the office" (40 Stat. 1141). One was to be appointed by the President of the Senate, and one by the Speaker of the House.

The men first appointed to those positions were Thomas I. Parkinson, in the Senate, and Mr. Beaman in the House. Both previously had been engaged with Professor Joseph P. Chamberlain of Columbia University in research to develop improved techniques in the drafting of statutes (29 Col. L. Rev. 381).

PRIORITIES IN SERVICE

Although the office is required by the statute which created it to render service only to committees, it has long been the practice of the office to furnish drafting service also to individual Members of the Senate on their request to the extent permitted by its personnel strength.

The Committee on Rules and Administration of the Senate is authorized to determine the preference to be given by the office to requests for service. The order of preference in effect for many years is the following: (1) measures in conference; (2) measures pending on the floor of the Senate; (3) measures pending before a standing committee; and (4) preparation of original measures for individual Members of the Senate.

Within each of those categories, each attorney in the office gives preference to requests in the order of the time of their receipt, except that a request for a measure or amendment which can be prepared quickly may be given priority over one of earlier receipt which will require an extended period of time for preparation.

LIMITATION OF FUNCTIONS

The office has no part in the formulation of legislative policy. Its only concern with policy is to ascertain the desired policy in adequate detail and with sufficient precision to enable it to formulate a measure which is technically effective to carry out legislative intent.

It serves committees and Members of the Senate without regard to political considerations.

All service is rendered upon a confidential basis, and care is taken to prevent any violation of confidence.

CHARACTER OF SERVICES RENDERED

Service rendered to a standing committee with respect to a single measure may include assistance to subcommittee staff members in the preparation of amendments required to carry into effect policy decisions made from time to time by the subcommittee during its consideration of the measure, and in the preparation of the amended measure for reporting to the full committee. It may include similar assistance to members of the staff of the full committee before the measure is reported for floor action. Assistance also may be given in the preparation of any floor amendments requested on behalf of the Member in charge of the measure on the floor. In the case of a measure as to which a conference is requested to resolve differences between the Senate and the House of Representatives, assistance may be furnished in the preparation of the conference report.

During each session of the Senate, virtually

all Members request the preparation of original measures and amendments. The measure so prepared range from relatively simple private relief bills to omnibus measures of considerable technical complexity. When a major measure is called up for consideration on the floor of the Senate, the office usually receives requests from many Senators for the preparation of a wide variety of floor amendments.

Frequently the office is called upon to review drafts of bills prepared in executive agencies and elsewhere, and to make such revisions as may be required for technical sufficiency, before their introduction in the Senate.

Apart from the preparation and review of proposed legislation, members of the office are consulted often by members of the staffs of committees and subcommittees, and by members of the staffs of individual Senators. Such consultation occurs with respect to possible approaches to the legislative solution of particular problems, technical questions of substantive and procedural law, and such matters as the mechanics of the preparation of reports, the technical legal accuracy of reports, and fulfillment of the requirements of the Cordon Rule.

The range of subjects with which the office deals is very extensive. It is expected to render service with respect to all matters within the purview of proposed Federal legislation in a period in which the role of the Federal government is ever expanding. As stated by two qualified observers, "the scope of each attorney is formidably broad" (Lawyers for the Lawmakers, Krasnow and Kurzman, 51 Am. B.A.J. 1191).

In the past 20 years the number of measures and amendments prepared by the office during each Congress has increased greatly. During the 90th Congress approximately 4,500 were drafted. Of greater significance is the number of new subjects of Federal legislation which has occupied the attention of the Congress during that period, and the increasing technical complexity of many of those subjects. The increase in the number of subcommittees of the Senate which has occurred in that period has contributed materially to the increasing volume of business of the office.

RESPONSIBILITIES OF THE DRAFTSMAN

Legislative drafting in the Congress is an exacting occupation. Effective drafting requires careful analysis of the legal problems involved, arrangement of matter in a logical sequence, and accurate and unambiguous expression of the concepts set forth. Constitutional limitations must always be observed. Most legislative proposals deal with matters which have been the subject of one or more previous enactments. A new measure must be carefully related to earlier enactments to produce, as far as possible, a consistent body of law which will carry the Congressional purpose into effect without producing unintended consequences. A simply stated policy objective may require the identification and alteration of numerous provisions of existing law. Examples may be noted particularly in such highly structured bodies of law as the Internal Revenue Code and the many titles of the Social Security Act. A failure to make necessary conforming changes in existing law may lead to difficulties in administration and to judicial interpretations at variance with Congressional intent. Often the draftsman must work under severe time limitations.

Former Chief Justice Stone once observed that "The drawing of a legislative Act requires exceptional training, experience, and skill . . . No legislation can be enacted which does not have its effect, and oftentimes a serious effect, upon the existing law, written or unwritten, or both." (Harlan Fiske Stone: Pillar of the Law, Mason, Alpheus Thomas, page 119).

PERSONNEL OF THE OFFICE

In its first half-century of service, the Office of the Legislative Counsel of the Senate has been headed by eight men. The successors of Mr. Parkinson during that period were John E. Walker, Frederic P. Lee, Charles F. Boots, Henry G. Wood, Stephen E. Rice, John H. Simms, and Dwight J. Pinion. Upon the retirement of Mr. Pinion on October 31, 1969, he was succeeded by John C. Herberg.

Under the Act of 1919, each draftsman was authorized, with the approval of the President of the Senate and the Speaker of the House, respectively, to appoint and fix the compensation of necessary assistants. Later, in 1941, appointment of the Legislative Counsel of the Senate, and approval of the appointment of assistants, was made the responsibility of the President pro tempore of the Senate (55 Stat. 726).

In 1919 the office had a staff of three attorneys and one clerk. By 1945 the number of attorneys in the office had increased to six. Under the authority given by the Legislative Reorganization Act of 1946, the office reached its present normal strength of eleven attorneys in 1949. That increase was accomplished gradually because of the time required to select, train, and develop to special competence a new member of the office.

The ability of the office to deal with the increase in the volume of its business which has occurred since 1949, without an increase in the number of its attorneys, has resulted chiefly from two practices.

The first is the care taken in the selection of new attorneys. Almost invariably, new attorneys have been chosen from recent law school graduates of special promise who are interested in serving as legislative draftsmen on a career basis. Care is taken in the recruitment and training of staff attorneys to avoid any political coloration or bias. Because of the nature of their role in the legislative process, members of the office also must possess a "passion for anonymity" not common among competent attorneys.

The second factor is the development of a small corps of career attorneys whose growing experience and skill within the areas of their individual special competence has produced a progressively higher individual accomplishment. The median period of service of attorneys in the office is approximately 18 years. Within the past three years the office has lost the services of three experienced attorneys through retirement and resignation.

Promotion of attorneys within the office is based upon seniority in service. No change in personnel of the office has resulted from any change in political control of the Senate.

A fine spirit of cooperation among the members of the entire staff, professional and non-professional, has contributed to its effectiveness.

TELEMEDICINE

Mr. BENNETT. Mr. President, in reading this week's edition of Rodale's Health Bulletin, I was extremely interested to note an article concerning the University of Utah Medical Center's use of telephones in neurology. The story points out that neurologists all over the world are expressing great interest in this new concept of Telemedicine.

This program, established by Dr. Donald R. Bennett and Dr. Reed M. Gardner, enables doctors to send brain waves from distant areas directly to the medical center at the University of Utah. I am excited by the opportunities which this suggests for all of medicine. I ask unanimous consent that the article be printed in the RECORD.

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

EXAMINING PATIENTS BY PHONE

Requests are pouring in from neurologists all over the world for information about the University of Utah's new concept—telemedicine. Telemedicine is the examination of patients over long distance telephone. At present, Doctors in the Department of Neurology at the University are transmitting brain waves (EEG's) from distant communities to the Medical Center.

The system, established by Drs. Donald R. Bennett and Reed M. Gardner, has been used to relay 350 brain waves from Twin Falls, Utah to Salt Lake City, Utah, a distance of 240 miles, in the year it has been in existence. Dr. Bennett says, "Sending EEG's like this from a small city to a large one opens the door for some exciting new developments in medicine. Using the same methods, it is technically possible to send other medical data by telephone, including blood pressures, EKG's, and even closed circuit television pictures of patients."

Valley Memorial Hospital in Twin Falls has an EEG machine which sends brain wave readings over ordinary telephone lines. The signals are picked up in Salt Lake City on two dataphones and fed into another EEG machine for reproduction. According to Drs. Bennett and Gardner, this system is invaluable when a fast diagnosis is imperative and it is also beneficial in reducing costs and risks to patients by eliminating the need for an expensive, enervating trip to the distant city.

Dr. Bennett says that at this time the use of such facilities is "limited only by the cost of rental equipment, telephone rates and the need for additional technicians."

ANTI-CRIME AMENDMENTS TO DISTRICT OF COLUMBIA APPROPRIATIONS BILL

Mr. TYDINGS. Mr. President, when the District of Columbia appropriations bill comes before the Senate later this week, I intend to offer amendments to restore prison funds cut by the Appropriations Committee from President Nixon's crime program for the National Capital.

The District of Columbia appropriations bill, as reported by the Senate Committee on Appropriations, sliced $2.9 million from President Nixon's request for funds to start reforming the prison system in the District of Columbia.

In addition, I intend to offer another amendment to strike money appropriated in the Senate bill for planinng a new District of Columbia government administration building. The money which would have been used for construction of that building would thus be available for executing the President's crime program here in the National Capital.

Reform of the National Capital prison system should have the highest priority in the District of Columbia budget. The hard fact is that the present prison system is a dismal failure. Half the convicts now released from the local felony prison at Lorton are arrested for another felony within 3 years. The District of Columbia jail, like Lorton, is a tinderbox stuffed to twice its capacity. The Women's Detention Center is equally obsolete and dangerous. These are not reformatories; they are crime factories. Their inmates and their prison terms more

hardened and dangerous than the day they began.

Fortunately, the President recognized this urgent need. In his January 31 message to the Congress, President Nixon said:

> As the local government is painfully aware, the existing facilities and programs of the Department of Corrections are woefully inadequate. On January 16, 1969, the Director of the Bureau of Prisons submitted a comprehensive report to Mayor Washington identifying the deficiencies and making a number of recommendations. I join the Mayor in urging the immediate implementation of those recommendations, and I will offer whatever Federal assistance is possible in doing so.
>
> All who have studied the problem agree that far-reaching changes are needed in the penal facilities and programs serving the District. I will press vigorously for accomplishment of the needed reforms.

My amendments will supply the necessary funds for implementation of these corrections portions of the President's crime program.

The first amendment will restore the $2.8 million cut by the Senate Appropriations Committee from the capital outlay budget the President requested for District of Columbia correctional institutions. Specifically, it will restore in the Senate bill the funds appropriated by the House for the planning of the new jail, the construction of additional maximum security cells at the Lorton prison, and the construction necessary to make the Women's Detention Center more secure.

All these projects were recommended by the Federal Bureau of Prisons. All were endorsed by the White House as part of the President's crime program. Just last week, the urgent need for these projects was emphasized again by the Advisory Panel Against Armed Violence, which reported to me on the steps necessary to reduce armed crime in the National Capital area. That panel reported to me that—

> In order for the D.C. Department of Corrections to meet its responsibility and help reduce violent crimes, it must be completely overhauled. It must be provided with massive resources, modified correctional structure, and more flexible authority to utilize correctional procedures in dealing with prisoners.

My second amendment would eliminate the funds the Senate bill would appropriate for planning a new District Building. These funds were denied by the House after Mayor Washington told the House Committee that the city could live without a new District Building but that it could not live without a new jail.

The third amendment I shall offer will restore a part of the President's crime program that was taken out of the bill by the House and not restored by the Senate Appropriations Committee. This amendment will provide the money to establish and operate three community-based work release centers in the last 4 months of this fiscal year, starting with March. That amendment will increase to 10 the number of work release centers—the number asked for by the President.

I believe these amendments provide the bare minimum necessary to begin to remedy the intolerable failure of the local prison system. I urge their adoption.

Financial summary of Tydings amendment

Budget requests for District of Columbia prison construction	$5,353,700
House bill	5,353,700
Senate bill	2,397,900
Tydings prison construction amendment*	2,852,100
Tydings work release amendment*	113,000
Less: District building planning funds	335,500
Net cost of Tydings amendments	2,629,600

*Parts of President Nixon's crime program.

EXTENSION OF SELECT COMMITTEE ON NUTRITION AND HUMAN NEEDS

Mr. SCOTT. Mr. President, I welcome the action taken by the Committee on Rules and Administration, of which I am a member, to extend for an additional year the Select Committee on Nutrition and Human Needs.

I cosponsored and strongly supported the legislation which created the select committee which was established to investigate the problems of hunger and to recommend some solutions. Over the past year, testimony taken by this committee influenced the drafting of welfare reform, improvements in the manpower program, and the food stamp amendments. Because of the work of this investigative committee, the substitute food stamp bill which passed the Senate on September 24 contained language similar to my amendment to extend the benefits of the food stamp program to elderly persons now denied eligibility because they are physically unable to cook for themselves. My amendment authorizes public and private, nonprofit organizations to exchange food stamps for cooked meals prepared for home delivery and for consumption in community dining halls. Without the testimony taken by the Select Committee on Nutrition and Human Needs, this great need of our incapacitated and homebound elderly might otherwise have remained unrecognized.

In its interim report of last August, the committee set forth its plans to examine, evaluate and make recommendations on the subjects of family food assistance, child nutrition, nutrition education, nutrition-related research, transferability of Federal and foreign experience to meet domestic needs, nutrition and the delivery of health care, nutrition and farm policy—and much more.

The oversight of the Select Committee is needed for the recommendations which will be forthcoming around January or February as a result of the White House Conference on Nutrition.

Mr. President, today, the Senate Committee on Rules and Administration, on which I serve, favorably considered the extension of the Select Committee on Nutrition and Human Needs for another year. Its chairman, Senator GEORGE MCGOVERN, believes that in order to fulfill the mandate from the Senate, the committee must remain in existence and carry on its activities during the year 1970. I fully support this position and Senate Resolution 279, to extend the Select Committee on Nutrition and Human Needs for an additional 12-month period.

NAJEEB E. HALABY

Mr. TYDINGS. Mr. President, recently a pilot stepped out from the cockpit of a test version of the giant Boeing 747 transport and commented, "Never seen a better pilot's aircraft."

This pilot, however, was no ordinary pilot. He was Najeeb E. Halaby, the new president and chief executive officer of Pan American Airways.

"Jeeb" Halaby assumes his new post at a crucial time in the development of commercial aviation. The Jumbo Jet, the SST, and VSTOL all offer an exciting future. But this future is threatened by congestion, air piracy, environmental concern, and the simple inadequacy of our airways system to handle the new aircraft.

Mr. President, it will take more than a wing and a prayer to pilot our aviation industry through the next few years. It will take men with the foresight and vision of a Jeeb Halaby. By background, temper and ability he is uniquely qualified to assume the top executive position of America's leading overseas airline. Pan American's responsibility, after all, is beyond that of a domestic airline. It carries our flag abroad as well as our people. It is thus a reflection of America that is carried to all corners of the globe.

The task is a great one, a responsibility to be held in trust. Combined with the difficult problem now confronting commercial aviation, it represents a major challenge to Jeeb Halaby and Pan American. I am confident, however, that under his leadership Pan Am can still "make the going great."

Najeeb E. Halaby learned to fly at the age of 17. As a naval aviator, he helped test the first American jet, and made the first transcontinental jet flight in 1945. A lawyer as well as a pilot, he was one of the original group to submit proposals which led to the creation of the Federal Aviation Agency.

When he was named Administrator of the FAA in 1961, President John F. Kennedy said:

> We have looked for the best qualified and professionally competent man. We have him in Jeeb Halaby.

When he left the agency 4 years later, President Johnson praised his "vigorous and dynamic leadership" and added that "in 4 years of dedicated, tireless service he had done much to assure public confidence in the safety of air travel."

Najeeb E. Halaby is now assuming a different yet important position. I know he can do the job and wish him well in his new endeavor.

OIL IMPORT CONTROL POLICY

Mr. INOUYE. Mr. President, it is my understanding that the Cabinet-level task force on this Nation's oil import control policy is currently planning to hold its final meeting this coming Monday. Predictably, the oil industry is mounting

a last-ditch offensive in an effort to prevent substantial change in the present quota system which has proven such a bonanza to the industry, and such a costly one to the consumer, while failing to contribute effectively to our Nation's security—the prime rationale for its original imposition.

Mr. President, I believe it is time that the interests of the consumer and the interests of our Nation's security be given prime consideration in any determination of oil import policy. Hopefully, the members of this task force will stand firm against the entreaties of those who seek rather a policy minimizing the withdrawal symptoms of an industry too long favored by our programs at the expense of the consumer and our security.

On December 1, I, together with Representatives PATSY MINK and SPARKY MATSUNAGA, sent a letter to Secretary Shultz setting forth our concern over possible changes in policy which would establish a Western Hemisphere preference tariff as the alternative to the present quota system. We outlined safeguards and procedures which would protect the interests of our state while serving the needs of the Department of Defense.

We in Hawaii are further concerned with a Western Hemisphere or what amounts to a Venezuelan preference tariff. Such sources are unavailable to us in Hawaii at a competitive price even if Venezuela does not—as news reports already indicate is planned—adjust the tax reference price upward so that any tariff preference is totally to their benefit and does nothing for the American consumer. We should be equally concerned with our relations with Indonesia—a nation whose friendship and economic development may well be far more important to our security and our interests.

Any policy which is established must encourage not only domestic development of our resources but also domestic refinery of foreign produced crudes. To do otherwise would be detrimental not only to our security but to our balance-of-payments situation. Under present policy we find more than 90 percent of our low sulfur residual fuels for the east coast area refined overseas. In 1965 less than 75 percent was refined abroad. Our electrical energy generating capacity is dependent upon such fuels and domestically refined sources are essential.

If a tariff on crudes is to be the alternative to present policy then it must be so imposed as to discourage the import of refined products. This can be achieved by permitting the full implementation of the Foreign Trade Zones Act and encourage the development of special purpose subzones not only to provide low cost bonded bunker fuels for the international market but also to permit the flow of low cost refined products to those areas without access to domestic crudes and sources.

Mr. President, I ask unanimous consent that the above-mentioned letter to Secretary Shultz be printed in the RECORD.

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

DECEMBER 1, 1969.

Hon. GEORGE P. SHULTZ,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: The recently published stories relative to the deliberations of your Committee on Oil Import Policy (*Wall Street Journal,* November 24th, *Washington Post,* November 25th) lead us to believe that your Committee is seriously considering the elimination of the quota system and the adoption of some form of preferential tariff favoring Western Hemisphere oils. We wish to take this opportunity to express our deep concern over the impact which such a policy may have on the economy of our State.

I am certain you are well aware of the undue hardship which has been incurred by the people of Hawaii because of our inclusion under the present Oil Import Control Program as part of District V. As a non-oil-producing state with no economic source of domestically produced crudes we are naturally opposed to any protective tariff system which will place the burden of subsidizing the high cost domestic producers upon the consuming public. We are particularly opposed to a Western Hemisphere preference tariff which will further penalize us because such sources are too expensive to Hawaii. These require shipment in small tankers through the Panama Canal with the additional canal fees forcing us to be dependent upon higher tariff non-Western Hemisphere sources. We believe further that such tariffs would not only additionally penalize our State but would aggravate our relations with sensitive oil producing areas in the Middle East, Africa, and Indonesia.

While we can appreciate the desire of your Committee to revise present policy to permit the more normal functioning of the market forces we do feel the restraints which reportedly you will be substituting are particularly damaging to our efforts to reduce energy costs in a state which is so wholly dependent upon petroleum. To institute a new and higher tariff at this time would also be contrary to the President's announced policy in his address to the Congress on November 18th of this year. On that occasion he stated that he would pursue a policy of tariff reduction, the study of non-tariff barriers, and promote a general liberalization of the over-all foreign trade policy.

There is a channel of relief, however, within the policies and provisions of the present law. It is one which fits into our over-all trade posture and meets the national security criteria. We refer to our system of foreign trade zones.

The Foreign Trade Zone Act was adopted during a high tariff period in our history as a device whereby plants and industries could be located on United States soil and still permit such industry to compete with foreign producers in our domestic market as well as with such competitors for certain foreign markets.

The State of Hawaii has pending with the Foreign-Trade Zone Board an application for a sub-zone for an oil refinery. It has been pending for an extended period of time and action has been postponed pending the outcome of your deliberations. If a preferential tariff system is to be adopted it is imperative that provision be made to implement the Foreign Trade Zone Act. Properly implemented this Act enables plants within the zone to avail themselves of a so called "privileged tariff payment" procedure whereby they have the choice of paying tariffs on either the raw materials or on the finished products. Should higher tariffs on refined products be instituted as part of the new policy exclusion from such duties could be granted to those refined on American soil. Further if the Board upon the advice of the Defense Department wishes to place restrictions upon the type of refinery constructed to ensure that it will be geared to produce the necessary fuels for the military this is wholly feasible. Such a refinery would, of course, not pay duty on output sold in bond to either the Department of Defense or civilian consumers. It would also import into our island economy low cost residual fuels which bear a low tariff under present duty schedules.

An essential aspect of any new oil import policy should ensure the construction of refinery capacity within our national boundaries both in the interests of national defense and our balance of payments problem. Proper use of the foreign trade zone would be consistent with these two interests.

In summary, we feel that a case can definitely be made for special consideration of the unique problems which face the consumer in our State. Preferential tariffs work against their interests. Should they be adopted, however, our only relief would be through the prompt approval of the long pending application for a foreign trade subzone refinery and the effective implementation of a rational program under the provisions of the Foreign Trade Zone Act.

Your consideration of our problem in your over-all deliberations will be greatly appreciated.

Sincerely,

DANIEL K. INOUYE,
U.S. Senator.
SPARK M. MATSUNAGA,
U.S. Representative.
PATSY T. MINK,
U.S. Representative.

WARNING SIGNALS FOR SMALL BUSINESS

Mr. BIBLE. Mr. President, on December 3, I reported on the current status of small business. I pointed out that the Nation's 5½ million small businessmen have been caught in a giant pincers effect between rising capital and labor costs, on the one hand, and increasing consumer resistance to overinflated prices for goods and services, on the other hand. I also stated that the small businessman's plight is further complicated by the administration's decision not to grant direct loans through the Small Business Administration and its advocacy of the repeal of the 7-percent investment tax credit and multiple surtax benefits for small business. My remarks were based in part on a survey conducted by the National Federation of Independent Business covering the experience of 80,000 small businessmen in the 50 States during the first 9 months of this year.

In today's Wall Street Journal, an article by Alfred L. Malabre, Jr., based on more recent information, strongly substantiates the fact that warning signals are indeed flying for the Nation's small businesses. On that point I ask that the Wall Street Journal article in its entirety be included in the RECORD at the conclusion of my remarks.

Mr. President, spokesmen for the administration have been warning us for some time now about the "crunch" and "squeeze" that lies in the months ahead. If, in our battle against inflation, our fiscal and monetary policies are designed to put the entire economy through the wringer, let us not take it out of the hides of the Nation's small businessmen. If, as Mr. Malabre points out, owners of small businesses are reluctantly selling

their businesses "usually through exchanges of stock, to big corporations," our current fiscal and monetary policies may well result in permanent damage to our American competitive business system.

Needless to say, the Senate Small Business Committee will be monitoring these developments closely in the coming months.

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

THE LITTLE GUYS—GOVERNMENT'S EFFORT TO CURB INFLATION HITS SMALL FIRMS EXTRA HARD—TIGHT MONEY AFFECTS MANY; SOME POSTPONE EXPANSION; A FEW DECIDE TO SELL OUT—THE BOSS' SON GETS DRAFTED

(By Alfred L. Malabre, Jr.)

Times are getting uncomfortably difficult for many small companies.

Turning a profit has recently grown harder for business in general. But problems that are only beginning to trouble big corporations already are severely hurting many small firms. The list of woes includes super-tight money, scarce and costly skilled labor and slow payment of bills by some customers. Owners of some small firms, convinced that still more difficult times lie ahead, are reluctantly selling their businesses, usually through exchanges of stock, to big corporations.

That's the finding of a Wall Street Journal survey of several dozen relatively small companies in a variety of industries. More than 85% report that their profit margins are falling sharply. Nearly all view the year ahead as an extremely difficult period.

CASE OF DISCRIMINATION

Tilford Gaines, economist for Manufacturers Hanover Trust, New York, discussed the plight of small firms in a recent economic report published by the bank. The Federal Reserve's tight-money policy to curb inflation, Mr. Gaines stated, bears "more heavily upon small-to-medium-sized business concerns than upon large companies." Noting the "discrimination implied by this situation," the bank economist added that "those smaller companies who must rely upon their bank lines (of credit) have found it increasingly difficult to obtain new lines or to add to existing lines."

A few statistics clearly indicate that small companies are faring worse than their big brothers. Last month a Wall Street Journal survey of 436 large corporations found that after-tax profits in the third quarter were 3.7% higher than a year earlier. But a later Commerce Department survey of *all* corporations, small as well as large, found that after-tax profits in the third quarter were no higher than in the 1968 period.

"Obviously, the smaller companies, dragged the total down," says a Commerce Department economist.

Among the small companies feeling a pinch on profits is Wiremold Co., a Hartford producer of electrical equipment. Wiremold's 1969 sales are running some 10% above the 1968 pace, says Robert H. Murphy, executive vice president, but "our profits will be down a few percentage points" from the 1968 level. Looking ahead to 1970, Mr. Murphy believes that "we'll do well" to match 1969 results. The company, which employs some 600 workers, plans no expansion projects in the new year, Mr. Murphy adds, explaining that "getting money would be a problem."

C. Henry Bacon Jr., president of Simpson Timber Co. of Seattle, says his firm recently postponed two plant projects partly "because of tight money." The company had planned to begin building a $4 million plywood plant and a $3 million door-making plant. Mr. Bacon adds that the company, which is family owned, depends also on retained profits for expansion projects. Until July, he says, profits were running ahead of 1968 levels. But since then profits have been "substantially under" the year-earlier rate, he says. He cites as one reason the slump in home building, which has been one of the direct victims of the Government's fight against inflation.

A BIG CUTBACK

Profits are also down at Wean United Inc., a Warren, Ohio, equipment producer for such industries as steel, rubber and copper. "Our sales are off slightly from a year ago," reports R. J. Wean Jr., president, "and our profits are off more than 10%." The profits squeeze is a major reason Wean United plans to slash its plant-and-equipment outlays in 1970 by "about 60%," Mr. Wean reports. "Our last major borrowing was in March of 1968," the executive adds, "and I hope we won't have to borrow again until money rates ease a good deal."

A recent Government survey of all corporate plant-and-equipment spending suggests that many larger companies, in contrast, are continuing to spend heavily. The survey found that total capital outlays in early 1970 would rise sharply, rather than drop, despite the thinking at such firms as Wean United and Simpson Timber. Mr. Wean finds the Government report "unbelievable."

Some small firms that would like to expand say a major problem is that money is just too expensive to borrow. Many small firms traditionally have to pay more than the prime rate—the interest rate that banks charge on short-term loans to their most credit-worthy customers—and with the prime rate now at 8½% their borrowing costs are almost prohibitive. And some of those small firms that used to be able to borrow at the prime rate now find they can't.

"We've been told we would have to pay a full percentage point above the prime rate if we were to borrow," reports Raphael Blessinger, president of Jasper Desk Co., a Jasper, Ind., producer of wood office furniture that employs some 170 persons. The costlier borrowing has been imposed, Mr. Blessinger says, even though "our sales and profits are staying ahead of last year." Several months ago, he says, "our banks would still have given us the prime rate."

SLOWDOWN IN PAYMENTS

Jasper Desk is one of several small firms that report bill-collecting is growing more difficult. "Even our best customers are getting behind in their payments," Mr. Blessinger says. "Some are 20 and 30 days overdue." Another problem: Jasper Desk must renegotiate a mortgage loan next year. The present loan carries an interest rate of 6%. "We'll be lucky if we can get 8% when we renegotiate," Mr. Blessinger remarks.

Finding skilled labor is the main problem at Essex Brass Corp., a Warren, Mich., brass fabricator. Essex employs about 50 workers, says John Q. Nagel, president, "but we could certainly use another dozen." The executive has little hope of getting more, however, because "we're in an area of many big companies, which have much higher pay scales than we can afford." In recent years, Mr. Nagel adds, Essex has lost skilled workers to such giant neighbors as General Motors Corp., Chrysler Corp. and Ford Motor Co. Recent layoffs in the auto industry haven't led to more job applicants at Essex, he says.

Even the Vietnam war seems to weigh more heavily on relatively small companies, where management ranks are often thin. Mr. Nagel had counted on help from his 26-year-old son in running the company. But the youth was recently drafted and now is "in the thick of combat" in Vietnam, says the executive.

The expense of curbing pollution is often thought of as a big-company problem. Interviews show, however, that it can pose an even greater problem for many small outfits.

Berkmont Industries, Boyertown, Pa., recently had to spend $97,000 to install special smoke "scrubbers" to comply with new state pollution-control regulations, says an executive of the iron-castings foundry whose sales total about $2 million annually. In the past 15 months, the Berkmont officer estimates, about 10 foundries in the state have gone out of business because they were unable to raise the funds necessary for such equipment. "Our industry has a great many small firms," the executive says, "and many of them just weren't prepared for this type of expense."

Berkmont has managed to keep its profits at "about the same level as a year ago," he adds, largely because "we were able to put through a 7% price increase." He doubts that the market would bear another 7% price boost with about a 4% increase," the officer says.

Among the small firms that have recently become a part of a big corporation is Kusan Inc., a Nashville maker of plastic parts for autos and other equipment. Kusan recently decided to become a subsidiary of Bethlehem Steel Corp. through an exchange of stock, after operating as an "independent company for 23 years," says William R. McLain, chairman of Kusan. As a part of the big steel company, Mr. McLain says, "our borrowing will be a lot easier." Another benefit: Access to Bethlehem's huge research and development facilities.

Many other small companies, to be sure are clinging to their independence. "I have absolutely no intention of selling my business," asserts James M. Hagood, president of Tidewater Concrete Pipe & Block Co., Charleston, S.C. "My son is in the business with me, and he'll be taking it over when I retire." The company's pretax profits are "off about 10%" from last year's level, Mr. Hagood estimates, and "we haven't paid a dividend in a couple of years, and don't expect to next year either." The executive adds that a pickup in home building, which he anticipates, would greatly help Tidewater's performance. The firm has yearly sales of about $2 million and employs 70 persons.

While most small companies find money tight and costly, a few report they can still get relatively inexpensive loans at small country banks. An extreme example is provided by Nelson Muffler Corp., a Stoughton, Wis., supplier of mufflers for the farm equipment industry. "I know where I can still get money at 7½%" even though the prime rate at big-city banks is 8½%, says E. E. Bryant, president. "You can't do it at the big cities like Madison, but I know a bank in Black River Falls that will lend to us at that rate." But he isn't so sure how long his good deal will last. "The high rates are bound to spread eventually to all the small banks, too," he says.

RAILROAD RETIREMENT PAY

Mr. HATFIELD. Mr. President, for several months now 60,000 railroad employees have been awaiting their pay checks representing benefits gained from 25 or more years of service working for the railroad. Their checks have been held up—they have been written already—but due to the failure of the union to negotiate, these individuals are being deprived of money duly owed to them.

H.R. 13300, a bill to meet this problem, was proposed in the House and a substitute bill was developed in that body's Interstate and Foreign Commerce Committee. The bill is presently in the Senate Labor and Public Welfare Committee, and the full committee is awaiting the results of union negotiations which were finally entered into.

Mr. President, this is clearly a case of lack of responsibility on the part of the union. It is a disturbing event when the Congress is put in the position of not only pointing out but also taking on the responsibilities which rightfully and more appropriately belong elsewhere.

THE EFFECTIVENESS OF THE CONTROL OF HANDGUNS—A NEW STUDY

Mr. TYDINGS. Mr. President, the controversy over gun control legislation continues. Every new measure, either to strengthen or weaken gun control laws, draws forth claims and counterclaims. Fortunately, as our experience with this legislation increases, new studies concerning their effectiveness have become more sophisticated and more reliable. One such study is an illuminating article in the 1969 Duke Law Journal, "The Effectiveness of State and Local Regulation of Handguns: A Statistical Analysis." This professional and extensive analysis uses the most modern methodologies and the most up-to-date data. It conclusion is clear: the regulation of handguns strongly decreases deaths due to homicide, suicide, and accident.

I ask unanimous consent that this article be printed in the RECORD for the critical scrutiny of all those interested in this issue.

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

THE EFFECTIVENESS OF STATE AND LOCAL REGULATION OF HANDGUNS: A STATISTICAL ANALYSIS

(By Martin S. Geisel,* Richard Roll,** and R. Stanton Wettick, Jr.***)

(Note.—One aspect of the continuing debate over weapons control, apart from Constitutional issues, is whether legislation is inherently capable of reducing crime and deaths by shooting. The opponents of increased control, tacitly admitting that empirical evidence is one means for measuring the effect of weapons regulation, have contended that "[e]xpert opinion and compelling evidence seem to indicate that the amount or kind of crime in a community is not substantially affected by the relative ease with which a person can obtain a firearm." NATIONAL RIFLE ASSOCIATION OF AMERICA, THE GUN LAW PROBLEM 10. In the following study the authors employ data analysis techniques to examine the efficacy of state and municipal controls on handguns. They conclude that many lives would be saved if all states increased their level of control to that of New Jersey, the state having the most stringent gun control laws.)

The current controversy over gun control centers on the effectiveness of stringent gun control legislation.[1] Proponents of increased statutory control contend that rigorous laws will reduce death and crime rates by curtailing firearm possession by minors and such irresponsible adults as felons, mental, incompetents, addicts and alcoholics. They argue that this justifies minor inconveniences imposed on responsible citizens who use firearms for hunting, target-shooting and protection.

Opponents of increased control, however, argue that gun control legislation is not of sufficient value in the prevention of crime to justify the restrictions it places on the responsible citizen.[2] They contend that death and crime rates are not perceptibly reduced through gun control because such legislation does not prevent the professional criminal—the alleged "root" of the problem—from obtaining firearms. Furthermore, even if these laws did reduce the number of firearms possessed by professional criminals, other equally lethal weapons are readily available as adequate substitutes.[3]

One possible reason for this polarity of opinion is the lack of reliable empirical information describing the relationship between gun control legislation and death and crime rates. This article will attempt to alleviate this deficiency by presenting an empirical study which correlates gun control with various death and crime rates for states and cities, while simultaneously accounting for the influence of other factors such as per capital income, education and population density.

DESCRIPTION OF THE STUDY

The study measures the effectiveness of gun control legislation by the extent to which differences in death and crime rates among the states and cities can be explained by the differences in gun control legislation while accounting for the effects of several other factors that may influence death and crime rates. Differences in death and crime rates among the states and cities were obtained by collecting data on the rates of homicide by firearm, total homicides, suicide by firearm, total suicide, aggravated assault by firearm, total aggravated assault, accidental death, by firearm and robbery (hereinafter referred to as "death and crime rates") for the fifty states, the District of Columbia and the 129 United States cities whose population exceeded 100,000 in 1960. Differences in the other factors which may account for variations in the death and crime rates were obtained by collecting data relating to income, education, sex, police, race, population density, licensed hunters, age and temperature for the states and cities.

For the gun control legislation of the states and cities it was necessary to devise a method to measure the differences in state and city firearm legislation. Since there is a wide range of differences in weapons regulation among the states and cities, it was impossible to characterize adequately these differences by means of a dichotomous variable such as "weak gun control states" and "strong gun control states." It was possible, however, to classify the various gun control regulations into eight major categories. This permitted quantification of the gun control provisions of state statutes and city ordinances by assigning numerical weights to each of the eight categories in a manner to be explained below. Once gun control legislation was so quantified, a well-known data analysis technique [4] was employed to obtain probabilistic estimates of the extent to which differences in the death and crime rates are related to the differences in gun control, while simultaneously accounting for other factors.

Data

The state death and crime death data used in this study are 1960 and 1965 rates of homicide by firearm, total homicide, suicide by firearm, total suicide and accidental death by firearm and in addition, 1965 rates of robbery, aggravated assault by firearm and total aggravated assault; for cities, only 1960 rates for total homicide and total suicide were available.[5] In all instances the data are in rates per million population per year.

For states, the following *explanatory* variables were used: 1960 and 1965 income (thousands of dollars per capita); education (median school years completed by persons older than 24); sex (males per 100 females); police employees (employees per 10,000 population); race (non-white percentage of total population—1960, and black males per 50 population—1965; population density thousands of persons per square mile); age (median age in years) and licensed hunters (number per capita—1965 only).

For cities, the variables were: 1960 income (thousands of dollars per capita); education (median school years completed by persons older than 24); race (non-white percentage of population); population density (thousands of persons per square mile); age (median age in years); temperature (minus thousands of mean annual degree days—65° base); [6] manufacturing employees (persons per 1000 population employed in manufacturing durable goods); and police expenditures (dollars per capita).[7]

Gun control legislation

Federal legislation. Since we are concerned with variations in firearm legislation among states and cities, federal legislation is relevant only to the extent that it sets minimum standards which exist throughout the United States. Prior to 1968, federal control over firearms was minimal: there were two federal statutes regulating the sale of firearms, both primarily aimed at the criminal purchaser. The National Firearms Act,[8] enacted in 1934, restricted trade in machine guns and short-barreled shotguns and rifles by imposing a prohibitive tax on their manufacture and transfer, and by requiring manufacturers, importers, dealers and transferees of such weapons to register. The Federal Firearms Act of 1938 [9] extended federal control by requiring all firearm manufacturers, importers and dealers engaging in interstate commerce to obtain a federal license and to maintain permanent records of importation, shipment and other disposal of firearms; prohibited dealers and manufacturers from knowingly selling and delivering firearms to felons or to persons without a license to purchase where one was required by state or local law; and prohibited felons from receiving firearms and ammunition which had moved in interstate commerce. In addition, postal regulations prohibited shipments of hand guns through the mails, except between manufacturers and dealers and to certain public officers.[10]

In 1968, stronger federal gun control legislation was enacted.[11] Aimed at reinforcing state and local gun control regulations by barring interstate firearm transactions, the basic provisions of this Act include prohibitions against shipments of firearms in interstate commerce *except* between licensed dealers; [12] prohibitions against persons, except licensed dealers, transporting into or receiving in the state of their residence any firearms obtained outside the state; [13] prohibitions against sales to non-residents with certain exceptions for sales of rifles and shotguns to residents of a contiguous state [14]; prohibitions against sales to or receipt by persons less than twenty-one years of age (eighteen years of age for rifles and shotguns), convicted criminals, drug users and persons adjudicated as mentally defective; [15] the imposition of licensing and record-keeping requirements on manufacturers, importers and dealers; [16] the imposition of controls over the manufacture, importation and sale of highly destructive weapons such as bazookas, mortars, grenades and bombs; [17] and the imposition of additional controls over weapons covered by the National Firearms Act.[18]

State and local legislation. There are substantial variations in state and local regulations over the sale, possession and use of firearms. States such as Ohio,[19] Minnesota [20] and Kentucky [21] impose almost no controls; while New Jersey,[22] Hawaii [23] and Michigan [24] strictly regulate such activities.

The present study was limited to state and local laws regulating *handguns,* which are usually defined as firearms of less than three

Footnotes at end of article.

pounds and less than 12 to 20 inches. In addition, laws which regulate the use of firearms at *particular* times or places, laws which regulate the *discharge* of firearms, and laws which make the *use* of firearms *in connection with other illegal conduct* unlawful, were not considered.[25] Table 1 lists the eight categories of gun control legislation used in the study and the states [26] and cities [27] which have regulations in these categories. A city is shown within a category only if the state has no substantially equivalent regulation.

TABLE 1.—STATE AND CITY GUN CONTROL LAWS

State or city	Type of law [1]																				Total index value
	1		2		3		4					5	6		7		8				
	a	b	a	b	a	b	a	b	c	d	e		a	b	a	b					
Alabama	X [2]				X		X	X	X	X		X	X	X	X	X					31
Alaska		X						X	X	X											5
Arizona		X					X	X													4
Arkansas				X																	4
California	X						X	X	X			X	X	X	0 [2]	X					28
Colorado	X												X								10
Connecticut			X				X	0				X	X	X	X	0					29
Delaware	X						X			X		X	X								20
Florida			X				X	X													6
Georgia		X	X				X					X									15
Hawaii			X				X	X				X	X	X			X				35
Idaho	X						X														3
Illinois		X					X	X	X				X								13
Indiana			X				X	X	X	X	X	X	X	X	X	X					32
Iowa	X				X		X					X		X							17
Kansas		X					X	X	X	X											7
Kentucky		X					X														3
Louisiana		X					X														3
Maine	X						X	X					X								12
Maryland		X					X	X	X	X	X	X	X	X	X	X					30
Massachusetts			X				X	X	X	X	X	X	X	X			X				37
Michigan	X				X		X	X			X	X	X	X			X				35
Minnesota							X														1
Mississippi		X					X			X			X								12
Missouri		X					X	X	X	X			X	X			X				26
Montana		X					X														3
Nebraska		X					X	X													4
Nevada	X						X	X													4
New Hampshire	X				X		X	X				X	X	X							26
New Jersey	X				X		X	X	X		X	X	X	X	X	X	X				39
New Mexico		X																			2
New York			X					X	X	X	X	X	X	X			X				36
North Carolina		X					X	X	X	X	X		X	X			X				27
North Dakota			X				X	X	X	X		X	X	X							28
Ohio		X					X														3
Oklahoma				X			X	X													6
Oregon	X				X		X	X				X	X	X	X						27
Pennsylvania		X				X	X	X	X	X	X	X	X	X	X	X					32
Rhode Island			X				X	X	X	X	X	X	X		X	X					28
South Carolina				X			X	0	0	0	0	0	0								25
South Dakota		X				X	X	X	X	X	X	X	X	X	X	X					32
Tennessee			X				X	X	X	X	X	X	X	X	X	X					24
Texas			X				X	X													6
Utah		X			X		X														5
Virginia		X					X														3
Washington		X				X	X	X	X	X	X	X	X	X							29
Vermont								X						X							9
West Virginia				X																	4
Wisconsin		X						X													3
Wyoming		X						X						X							11
District of Columbia			X				X	X	X			X	X	X	X	X					30
Duluth		X										X	X								18
Jacksonville													X	X							12
Kansas City (Mo.)				X																	4
Lousiville								X				X		X							13
Miami									X	X											2
Minneapolis								X	X	X				X							7
Nashville													X								8
New Orleans									X					X							5
Oklahoma City										X		X		X							13
Omaha													X	X	X						20
Richmond												X	X	X							20
Tulsa													X	X							12
Wichita	X																				2

[1] Concealed; a. license, b. prohibition. 2. Carrying; a. license, b. prohibition. 3. Carrying in auto; a. license, b. prohibition. 4. Special prohibitions on possession; a. minor, b. felons, c. addicts, d. alcoholics, e. mentally ill. 5. Dealer licensing. 6. Recordkeeeping; a. by dealers, b. by governmental agencies. 7. Waiting period; a. fixed time between purchase and delivery, b. notification of authorities. 8. License to purchase.

[2] X represents all periods; 0 represents 1965 only.

The first three categories of Table 1 reflect state and city laws regulating the carrying of handguns. The first category covers laws restricting the carrying of concealed handguns; the second covers laws restricting all carrying of handguns; and the third covers laws restricting the carrying of handguns in motor vehicles.[28] Each of the categories is divided into two sub-categories—one listing states and cities which permit such activities by licensed parties and the other listing states and cities which totally prohibit such activities.[29] In some states within the first sub-category, licenses to carry handguns are issued to all persons with the exception of felons, addicts, and minors.[30] Other states have requirements that the applicant be of "good moral character," [31] or that he show a need to carry the weapon.[32] The issuing authority is usually a law-enforcement official, such as the chief of police.[33]

Footnotes at end of article.

Category 4, special prohibitions, lists five types of persons against whom additional restrictions are frequently imposed: felons, addicts, alcoholics, the mentally ill and minors.[34] These restrictions usually prohibit transfers of handguns to, and ownership or possession by such persons.[35]

Dealer licensing, the fifth category, refers to the requirement that firearms dealers be licensed.[36] Most of the statutes falling within this category impose licensing qualifications based on good character, age and a permanent business location,[37] and thus contain more restrictions than were imposed under the Federal Firearms Act.[38] Under this Act dealer licenses were granted to anyone submitting a one dollar fee with an application stating that he was not a felon.[39]

Under category 6, record keeping, are listed the states requiring the maintenance of records of handgun sales. Sub-category (a) lists those states which require the dealer to keep such records; [40] and subcategory (b) lists those states which require the dealer to file information concerning his handgun sales with governmental officials—usually a local law enforcement agency.[41] The required records usually include the name and address of the purchaser, the date of the purchase and the description of the handgun, including its serial number.

Category 7, waiting period, refers to a prohibition against the delivery of handguns for a specified time period after an application for purchase has been filed with the dealer. Listed in sub-category (a) are those states which impose any waiting period, the duration of which usually varies between one and fifteen days.[42] Listed in subcategory (b) are those states having waiting periods which require the dealer to notify a law enforcement official of the application for purchase prior to delivery of the handgun.[43]

The final category lists a requirement that the purchaser of a handgun obtain a license.[44] Such licenses are usually issued by

local law enforcement officers[45] and persons are excluded from obtaining licenses for a wide variety of reasons.[46] In several jurisdictions,[47] law enforcement officials have only a limited time to investigate the applicant.

Having categorized the gun control regulations, the next step was to quantify gun control legislation by assigning weights to each of the eight categories and summing the weights applicable to each state or city. Such a weighting procedure was necessary to permit the application of the multiple linear regression data-analysis technique[48]—the method used to analyze the differences in death and crime rates among the states and cities. Since some knowledge of multiple linear regression is essential to an understanding of the method of assigning numerical weights to the eight categories as well as to an intepretation of results, a brief description of the technique is presented at this time.

Description of data analysis technique

Statistical methodology. The basic hypothesis of this study is that the variable of interest (*e.g.*, the homicide rate) is a linear function of the selected independent variables (*e.g.*, gun control index, income, population density) and a random error term. That is,

$$Y_i=B_o+B_1X_{1i}+B_2X_{2i}+\ldots+B_kX_{ki}+U_i \qquad i=1,2,\ldots,n$$

where

Y_i=value of the dependent variable (*e.g.*, homicide rate) for the ith city or state;
$[X_{1i},X_{2i},\ldots,X_{ki}]$=set of values of the k independent variables (gun control index, etc.) for the ith city or state;
$[B_o,B_1,\ldots,B_k]$=set of unknown coefficients which we wish to estimate;
U_i=random error term for the ith city or state. This includes both truly random (not related to the independent variables) variation and the effect of any omitted variables; and
n=sample size (the number of states or cities in the sample).

The unknown coefficients, $[B_o,B_1,\ldots,B_k]$, are estimated by the method of least square. That is, that set of estimates is chosen, $[\hat{B}_o,\hat{B}_1,\ldots,\hat{B}_k]$, which makes the sum of squared errors,

$$\sum_{i=1}^{n}\hat{U}_i^2=\sum_{i=1}^{n}(Y_i-\hat{Y}_i)^2=\sum_{i=1}^{n}(Y_i-\hat{B}_o-\hat{B}_1X_{1i}-\hat{B}_2X_{2i}-\ldots-\hat{B}_kX_{ki})^2,$$

as small as possible.[49]

The estimated total variance of Y is defined as

$$S_y^2=\sum_{i=1}^{n}(Y_i-\bar{Y})^2/(n-1)$$

where

$$\bar{Y}=\sum_{i=1}^{n}Y_i/n.$$

The estimated unexplained variance is

$$S_u^2=\sum_{i=1}^{n}\hat{U}_i^2/(n-k-1).$$

Therefore, S_u^2/S_y^2 is the fraction of the total variance of Y not explained by the regression.

An estimate of the uncertainty associated with a particular estimated coefficient may be obtained by computing the ratio of the estimated coefficient to the square root of its estimated variance. From this ratio the probability of sign error (assuming the errors are normally and independently distributed), which is the probability that the true coefficient is negative (positive) if the estimated coefficient is positive (negative), is computed.[50] A related measure, the 95% confidence interval, is also reported. In nonstatistical terms, there is a 95% probability that the true coefficient falls within this interval.

In addition to information about the individual coefficients, a measure of the overall adequacy of the assumed relationship is desirable. This is provided by

$$\bar{R}^2=1-S_u^2/S_y^2,$$

which measures the fraction of the variance of Y "explained" by the regression.[51]

Quantifying gun control legislation. One may have some intuitive feelings about the relative effectiveness of the various categories of gun control regulations listed in Table 1. Since opinions of this subject may vary substantially, however, numerical weights should be assigned to these categories on some basis more reliable than intuition. In the present study approximately thirty sets of weights were selected which displayed great variation in the relative importance of the eight different categories. For each death and crime rate thirty regressions were then computed. Since other explanatory variables were held constant for all thirty regressions, the only difference among the regressions was that each had a different index for gun control as an explanatory variable.

For a given death or crime rate the best index would be that which yielded the maximum value of R^2, or, equivalently, the smallest probability of sign error in the estimated gun control coefficient. This index explains the greatest amount of variation in the death or crime rate, having accounted for other explanatory variables.

Selection of the set of weights in this manner does not bias the results either in favor or against gun control. It simply chooses those weights which have the highest probability of measuring the true relative effects of various gun control laws, whether those true effects be positive, negative or null. For example, suppose that license to purchase legislation were twice as effective in reducing homicides as concealed weapons legislation. This would mean that part of the variation in homicide rates among the states is due to some states having none, some one, and some both of these laws. Our objective is to account for the homicide variation among the states and cities and, of course, the highest percentage of the variation will be explained by the set of weights that exactly matches the true cause of the variation. Reasoning backwards, this means that the index with the highest R^2 is most likely to be composed of the set of weights that most closely matches the true relative effect.

None of the thirty indices selected consistently produced the highest R^2 for the various regressions. Different indices performed better for different deaths and crimes. This is shown in Table A–2 of the Appendix which reports the estimated gun control coefficient and its probability of sign error for ten different indices which were selected to show substantial but systematic variation. However, while the magnitude of the effect of gun control legislation varied with the index chosen, the direction of the effect was (except for aggravated assaults by firearm and robbery) independent of the index chosen,[52] and thus inferences as to the effectiveness of gun control legislation may be made with confidence.

Results from the use of index 4 of Table A–2, the index which yielded the highest R^2 in the greatest number of death categories considered (five out of twelve), are reported in the text. This index is listed in Table 2. In terms of estimating the number of lives saved by gun control legislation, however, this index ranked seventh out of the ten reported in the Appendix. Another index, number 3, yielded the highest R^2 for four death categories and gave the highest estimate of the number of lives saved by gun control.[53]

TABLE 2.—WEIGHTS OF GUN CONTROL LEGISLATION CATEGORIES (INDEX 4)

Legislative category	Numerical weight
1. Concealed:	
License	2
Prohibition	2
2. Carrying:	
License	4
Prohibition	4
3. Carrying in auto:	
License	2
Prohibition	2
4. Special prohibitions:	
Minors	1
Felons	1
Addicts	1
Alcoholics	1
Mentally ill	1
5. Dealer licensing	8
6. Recordkeeping:	
By dealers	8
By Government agency	4
7. Waiting period:	
Time	1
Notice	2
8. License to purchase	8

The text also reports the effects of other explanatory variables on death and crime rates. These coefficients do not vary substantially with different gun control indices.

RESULTS OF THE STUDY[54]

Results of the study are stated in terms of estimated coefficients which set forth the relationship between the various independent variables and the death and crime rates. Each coefficient indicates the estimated extent to which a one unit increment in an independent variable (e.g., gun control) will affect the dependent variable (a death or crime rate).

There is some uncertainty associated with the value of the estimated coefficient. As previously indicated, two measures were utilized to determine the degree of uncertainty: the 95% confidence interval and the probability of sign error.[55]

Homicide

The relationship between gun control and homicide by firearm and total homicide rates in the states and cities for 1960 and 1965 is given in Table 3.[56] The data in Table 3, presented in terms of the effect which a one unit increment in gun control will have on homicide rates, indicate that gun control probably has a negative effect on homicide by firearm and total homicide rates. In all five sets of equations the estimated gun control coefficient is negative and in only one case is there more than a fifteen percent chance that the coefficient's sign is positive (see total homicide rate for "States-1965"—Probability of Sign Error).

TABLE 3.—EFFECT OF GUN CONTROL ON HOMICIDE

Homicide rate (deaths/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
By firearm:			
States—1960	−0.176	−0.464–0.113	0.113
States—1965	−.228	−.518–.0623	.0602
Total:			
States—1960	−.228	−.647–.191	.140
States—1965	−.0951	−.479–.289	.310
Cities—1960	−.261	−.758–.237	.151

Table 4 presents the relationship of each of the independent variables to the death and crime rates. The results in Table 4 show that median income and population density are negatively related to homicides by firearm and total homicides; that the percentage of

Footnotes at end of article.

males, the number of police employees and the percentage of non-whites have strong positive relationships with homicide rates; and that the correlation between education and homicide was negative in 1960 and positive in 1965.

TABLE 4.—RELATION BETWEEN INDEPENDENT VARIABLES AND DEATH AND CRIME RATES

	Constant	Gun control	Income	Education	Sex	Race	Police	Population density	Age	Hunters	Manufacturing	Temperature	R^2
HF-60-S	−127	−0.176	−5.66	−2.73	1.81	1.30	0.356	−9.87	0.0965				0.7382
		.113	.224	.109	.0407	.0253	.270	.198	.458				
HF-65-S	−111	−.228	−17.8	.195	1.33	1.96	1.73	−24.1	.819	−23.0			.7967
		.0602	.0175	.471	.0772	.0447	.0377	.0268	.211	.0816			
HT-60-S	−122	−.228	−1.65	−4.00	1.89	2.04	1.83	−31.9	−.371				.7358
		.140	.440	.107	.0147	.0894	.0171	.0316	.389				
HT-65-S	−179	−.0951	−20.7	.906	1.93	2.87	2.87	−37.0	1.03	−41.3			.8110
		.310	.0310	.400	.0300	.0447	.0532	.0131	.223	.0310			
HT-60-C	149	−.261	−9.14	−4.99		2.36	−.0301	−.994	−.908		0.0627	5.29	.6234
		.151	.0660	.454		.0894	.459	.126	.141		.256	.0110	
SF-60-S	−86.8	−.488	−12.8	3.39	.961	.164	1.08	−64.5	1.41				.4402
		.0221	.150	.175	.0832	.322	.130	.0731	.173				
SF-65-S	−232	−.472	−17.3	5.41	2.05	.855	.680	−41.3	2.34	36.6			.6037
		.0183	.0860	.0957	.0664	.0197	.235	.0154	.0671	.0731			
ST-60-S	−249	−.389	4.70	5.25	1.67	−.0401	2.13	−98.2	4.05				.5667
		.0814	.371	.108	.0210	.461	.0303	.0307	.0117				
ST-65-S	−108	−.286	−3.48	13.1	1.48	.700	1.64	−77.6	4.45	23.9			.5503
		.163	.416	.0941	.0327	.0955	.0943	.0134	.0167	.233			
ST-60-C	−134	−.559	4.89	10.7		−.135	−.231	.466	4.64		.0915	6.22	.1735
		.0557	.280	.0366		.366	.284	.350	.0586		.245	.0451	
ACCI-60-S	−109	−.196	−16.1	2.29	1.42	.279	.722	−9.99	−.393				.6161
		.0478	.0510	.0997	.0612	.0557	.0636	.144	.295				
ACCI-65-S	−36.8	−.167	−9.19	−.219	.753	.384	.533	−.241	−.319	.310			.7760
		.0726	.0883	.429	.0648	.0135	.0321	.483	.246	.0756			
AGASF-65-S	−481	−.423	−68.0	19.2	4.12	12.1	15.2	−223	−1.33	−239			.7538
		.327	.104	.139	.0569	.0447	.0255	.0375	.420	.0146			
AGAST-65-S	246	3.00	−282	53.1	2.27	33.2	75.6	−857	−23.0	−1019			.6048
		.248	.131	.259	.425	.0829	.0115	.0126	.229	.0227			
ROB-65-S	846	−.418	549	−96.7	−13.3	6.16	62.2	−1286	−8.42	−405			.6594
		.444	.0109	.0430	.0529	.131	.0751	.0359	.344	.116			

H—HOMICIDE
S—SUICIDE
ACCI—ACCIDENTAL DEATH BY FIREARM
AGAS—AGGRAVATED ASSAULT
ROB—ROBBERY

F—BY FIREARM
T—TOTAL
C—CITIES
S—STATES

The upper number of each pair is the estimated coefficient. The lower number is the probability of sign error.

Suicide

Table 5 reports the relationship between gun control and suicide by firearm and total suicide rates. For all five equations the sign of the estimated gun control coefficient is negative, significant and sizeable. For four of the five equations there is a less than ten percent probability that the sign is incorrect. In comparison with the results for total homicide, there is a much greater probability that the gun control coefficient of total suicide is negative and of a greater magnitude—the estimated gun control coefficients of total suicide are approximately twice as large.

TABLE 5.—EFFECT OF GUN CONTROL ON SUICIDE

Suicide rate (deaths/million/year)	Coefficient	95-percent confidence interval		Probability of sign error
By firearm:				
States—1960	−0.488	−0.962	−0.0132	0.0221
States—1965	−.472	−.913	−.0309	.0183
Total:				
States—1960	−.389	−.940	.163	.0814
States—1965	−.286	−.866	.295	.163
Cities—1960	−.559	−1.25	.131	.0557

Under the heading Suicide-by-Firearm (SF) in Table 4, it can be seen that the number of years of school completed, median age, the number of licensed hunters, average temperature and the percentage of males have strong positive relations with suicides by firearm while population density has a strong negative relation. There is also an indication that median income is negatively related to suicides *by firearm* but not to *total* suicides.

Accidental deaths by firearm

Table 6, which shows the relationship between accidental deaths by firearm and gun control, indicates that the estimated gun control coefficients of accidental death by firearm are as significant (in terms of confidence interval and probability of sign error) as the suicide coefficients but only about the size of the homicide coefficients.

TABLE 6.—EFFECT OF GUN CONTROL ON ACCIDENTAL DEATH BY FIREARM

[Accidental death rate—death per million per year]

	Coefficient	95 percent confidence interval	Probability of sign error
States—1960	−0.196	−0.429 to 0.0361	0.0478
States—1965	−.167	−.299 to −.0349	.0072

The relationship between accidental deaths by firearm and other variables as shown in Table 4 indicates that the only significant negative factor is income. Significant positive factors include the percentage of males, the percentage of non-whites, the number of police employees and the number of licensed hunters.

Aggravated assaults

In Table 7 the relationship between gun control and aggravated assault is presented. There is a 67% probability that gun control is associated with a lower number of aggravated assaults by firearm (since the probability of sign error is .327), and about a 75% probability that gun control is related to a *higher* total of aggravated assaults (probability of sign error is less than .25).

Table 4 indicates that low income, a high percentage of non-whites, a high number of police employees, lower population density and fewer licensed hunters are associated with a higher number of aggravated assaults.

TABLE 7.—EFFECT OF GUN CONTROL ON AGGRAVATED ASSAULT

Aggravated assault rate (assaults/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
States, 1965:			
By firearm	−0.423	−2.32 to 1.47.	0.327
Total	3.00	−5.82 to 11.8.	.248

Robbery

The relation between robbery and gun control is set out in Table 8. The estimated gun control coefficient indicates that one unit of gun control will reduce the total number of robberies by less than one-half robbery per million population per year (or about 100 fewer robberies per year in the U.S.) and that there is only a 56% chance that the coefficients sign is correct.

TABLE 8.—EFFECT OF GUN CONTROL ON ROBBERY

Robbery rate (robberies/million/year)	Coefficient	95 percent confidence interval	Probability of sign error
States, 1965	−0.418	−6.38 to 5.55	0.444

Returning to Table 4, robbery is shown to be negatively related to education, population density, licensed hunters and the percentage of males; and positively related to income, the number of police employees and the percentage of non-whites.

Observations

The following observations may be drawn from the data presented in the previous section.

One: The data indicate that gun control legislation is related to fewer total deaths by homicide, suicide and accident by firearm. The estimated gun control coefficient is negative in the five homicide equations, the five suicide equations and both accidental death by firearm equations. Moreover, in seven of these equations the probability of error is less than ten percent and in only one of the equations does it exceed seventeen percent (total homicides—States—1965—31.0) %

The estimated gun control coefficients of total homicide, total suicide and accidental death by firearm for the states in 1960 were -.228, -389 and -196, respectively; and for the states in 1965 were -.095, -.286 and -.167, respectively. On the basis of these results it is estimated that one unit of gun control saves between .548 and .813 lives per million population per year. Thus it can be estimated

that the gun control legislation of New Jersey (39 untis) saves between 21 and 32 lives per million population per year. On a nationwide basis such legislation would save between 4200 and 6400 lives per year.[57]

The average index value (simple arithmetic mean) of gun control for the states in 1965, using the weights contained in Table 2, was 17.5. If all 28 states whose indices were below 17.5 were brought up to that number, an estimate based on the results of this study would indicate that about 505 fewer lives per year would be lost due to homicide, suicide and accidental death by firearm in those states. Furthermore, if all states were *raised* to the 39-unit level of New Jersey, about 1950 lives would be saved.

Two: A comparison of the results of the homicide and suicide *by firearm* rates with the *total* homicide and suicide rates provides an indication of the extent to which gun control legislation leads to the successful substitution of other weapons.[58] The similarity of the estimated gun control coefficients of homicide by firearm and total homicide for 1960 (-.176 and -.228) of suicide by firearm and total suicide for 1960 (-.488 and -.389) would support a conclusion that other weapons are not successful substitutes for firearms. However, the differences between the estimated gun control coefficients of homicide by firearm and total homicide for 1965 (.228 and -.0951) and of suicide by firearm and total suicide for 1965 (-.472 and -.286), would lead one to believe that other weapons are frequently *and* successfuly substituted for firearms.

The results showing a 75% probability that the gun control coefficient of total aggravated assaults is positive give some indication that more stringent gun control laws tend to cause the use of less effective weapons rather than to discourage homicide attempts. One explanation for the positive relation is that the additional aggravated assaults which occur in stringent gun control states are homicide attempts which are unsuccessful as a result of the use of less lethal substitutes. This explanation, however, can only account for part of the large (3.00) gun control coefficient for total aggravated assaults.

Another explanation for the positive relation is that the felon armed with a gun, assuming that he is responsible for a significant portion of the aggravated assaults, has less need to use force to obtain the victim's cooperation and to effect his get-away and that in stringent gun control states the hardened criminal is less likely to be armed with a gun and hence more likely to use force.[59]

Three: The evidence indicates that gun control has little effect on "ordinary" crime. As mentioned previously, there is a positive estimated relation between total aggravated assault and gun control; and while for robbery the estimated gun control coefficient is negative (−418), there is a forty-four percent chance that the coefficient's sign is incorrect. Moreover, even if the estimated coefficient is correct, the enactment of strict gun control legislation will not substantially reduce the robbery rate which exceeded six hundred robberies per million population for the nation in 1965.

Four: Results for other variables show that with the exception of robbery and total suicide, there is a negative correlation between income and the death and crime rates considered by this study; that education as measured by median school years completed is an important factor only for suicides (positive correlation) and robbery (negative correlation); that with the exception of robbery the relation between the percentage of males and the death and crime rates is strongly positive; that with the exception of suicide—1960, there is a strong positive relation between the percent of non-whites and the death and crime rates; that the relation between population density and the death and crime rates is strongly negative; and that the relation between the number of police personnel per capita and the death and crime rates is generally positive.[60]

LIMITATIONS

One: As previously indicated, certain types of state and local gun control legislation were not considered; the comparison between the states did not take into account the additional gun regulations of local governments within the state; and the gun control categories of Table 1 contained within the same category laws which differ to some extent. Since the evidence derived from this study indicates that additional gun control reduces the number of deaths, this has probably caused the effects of gun control legislation to be understated.

Two: The data used by this study do not account for differences in the enforcement policies of the different states and cities and for inaccurate reporting of deaths and crimes.

Three: The coefficients of certain demographic variables may not incidate a *causal* relation. The ecology of crime is more complex than this study's simple equations portray. The relation between the number of police personnel per capita and the death and crime rates illustrates this point.

Also, it is possible that important explanatory variables have been omitted. Two that are frequently mentioned in FBI reports are the number of transient residents and the penalty ordinarily imposed for the crime committed. Others that may be important include regional differences in attitudes towards firearms, regional religious differences, differences in level of frustration and differences in racial attitudes.[61]

Four: Since as of 1965 no state or city had totally prohibited the sale and possession of hand guns or imposed strict regulations on the sale and possession of rifles, the study tells little about the effectiveness of such types of gun control regulation. On the basis of this study's findings that additional controls, meaning increased units of gun control, reduce the homicide, suicide and accidental death by firearms rates, it would be expected that more stringent gun control, such as the regulation of rifles and the total prohibition of sale and possession of hand guns, would lower these death rates—but to what extent it cannot be said.

Also, this study does not indicate whether more stringent types of gun control would reduce "ordinary" crime. Perhaps measures such as prohibitions against the manufacture, sale and possession of all or certain types of firearms would disarm the professional criminal, and perhaps the disarmed professional criminal would be more hesitant to engage in criminal activity.

Five: While this study concludes that increases in the units of gun control decrease rates of homicide, suicide and accidental death by firearm, it does not show whether all unit increases in the amount of gun control are equally effective. It may be that the extent of the effectiveness of an increased unit of gun control is related to the amount of gun control which already exists within the state or city, or that certain types of gun control are effective only if other types of gun control are also enacted.

Six: The percentage of explained variation (R^2) in the death and crime rates was very similar for index weights that differed considerably from the weights listed in Table 2. Thus uncertainty remains as to the relative importance of the different types of laws.

CONCLUSION

The finding of the present study that gun control legislation reduces the number of deaths by homicide, suicide and accidents by firearms is inconsistent with three related research papers by Alan S. Krug which have received important circulation. Each of Krug's papers has been introduced into the Congressional Record, and the papers are presently being circulated in pamphlet form by the National Shooting Sports Foundation under the billing of "the first comprehensive study on a national basis ever made on the relationship of firearms to crime in the United States."[62]

Each of Krug's papers claims to discredit the position that gun control legislation reduces crime. In his first paper, Krug reports that the homicide by firearm rate has shown a decided downward trend from 1910 to 1967 while gun ownership has steadily risen.[63] In a second paper a simple comparison is developed which shows no significant differences between the crime rates of states with and states without firearm licensing laws.[64] The third paper reports a negative correlation between firearm ownership, as measured by the number of hunting licenses, and various crime rates for the fifty states.[65]

Krug's second study is of primary interest here since it, like the present study, compares differences in crime rates among states with differences in gun control legislation. In this paper, Krug first places the states into two groups: licensing and non-licensing states. Next, using 1965 data, Krug calculates average (arithmetic mean) homicide, robbery, aggravated assault and serious crime rates for licensing and non-licensing states and finds that the average homicide, aggravated assault and serious crime rates for licensing states exceeded the non-licensing states' average.

As a vehicle for discrediting gun control legislation, this study by Krug has several major deficiencies. First, the only death rate it considered was the homicide rate by firearm, and, as Krug admits in another section of the same study, this accounts for less than one-third of the nation's deaths by firearm.[66] Thus the conclusion that licensing has no effect on the homicide rate does not discredit a position that licensing reduces death by firearm.

Second, by using only two groupings for the fifty states and by examining only licensing requirements, the *True Facts* study failed to account for differences in state licensing requirements or other statutory controls over firearms. Moreover, by including within the licensing group any state which prohibits carrying firearms without a license, the licensing category included many states with weak gun control legislation. The legislation of six of the thirty-six states Krug included as licensing states had an index value of seven or less on the basis of the criteria used in the present study, while four of the fourteen states included as non-licensing states had an index value of seven or more.

Finally, although Krug recognized that factors such as population density, geography, per capita income and education appear to be significantly related to crime rates, these factors were completely neglected in his "statistical study." Thus, for these reasons it is submitted that the evidence presented in this study invalidates conclusions concerning death dates presented in these earlier papers.

Krug's other studies conclude that there is no relationship between the number of firearms and crime rates. These conclusions are of dubious merit for the reasons stated in an in-depth analysis of the Krug studies by Franklin E. Zimring.[67] Professor Zimring criticizes the first study, which examines the homicide by firearm and gun ownership trends, because (a) Krug's assertion that the homicide by firearm rate has shown a decided downward trend is questionable; (b) Krug failed to establish that *per capita* gun ownership is rising—he asserted only that the *number* of guns owned is rising; and (c) Krug's findings, even if accurate, do not

Footnotes at end of article.

preclude the possibility that stringent gun control legislation would have further reduced the homicide by firearm rate. Krug's third study, which finds a negative correlation between gun ownership and various crime rates for the fifty states, is criticized by Zimring for the use of hunting licenses as a measure of firearm ownership. Zimring asserts that hunting is not the major use of firearms in many areas of the nation or the major use of handguns, the weapons most frequently used in crime.

Nevertheless, even if Krug's conclusion that there is no relationship between the number of guns and crime rates should be correct, this in itself does not establish that gun control laws are ineffective. Most firearm legislation, according to its proponents, is not aimed at and does not prevent the law-abiding citizen from acquiring firearms. Rather, the legislation's purpose and effect is to keep guns out of the hands of minors and irresponsible adults.

This article has made no attempt to explain why gun control legislation reduces the number of deaths by firearm. To the authors' knowledge there is no reliable data on gun ownership, and hence it is not possible to agree with or dispute the thesis that there is no relationship between the number of guns and the death and crime rates. The findings here do indicate, however, that gun control legislation is most effective in reducing the number of suicides and accidents by firearm, less effective in reducing the number of homicides and generally ineffective in reducing the number of other crimes—all of which suggests that stringent gun control legislation reduces the number of persons possessing firearms. It seems likely that a high percentage of suicides, accidents by firearm and homicides are committed by adults who have never been convicted of a crime, adjudged mentally incompetent, or designated an addict or alcoholic.[68] Thus the most plausible explanation for the effectiveness of gun control in reducing these death rates is that the percentage of adults who could lawfully obtain firearms is reduced by stringent gun control legislation.

The concern of this study is with the effectiveness of gun control legislation. On this point evidence is presented that stringent gun control legislation reduces death by homicide, suicide and accidents by firearm. For each of ten varying sets of weights reported in the Appendix, the gun control coefficients of homicide, suicide and accidental deaths by firearm are negative. Thus the conclusions do not depend upon our choice of weights. The choice of weights does, however, make a difference as to the *size* of the gun control coefficients. Results based on the ten sets of weights reported in the Appendix ranged from 1520 to 3340 additional lives saved if all states were raised to the level of New Jersey.[69] Consequently, there is no doubt that gun control legislation saves lives but there is a question of *how many* lives it saves.

Footnotes at end of article.

APPENDIX

Further results

As mentioned in the text, we tried ten different sets of weights, each set yielding a different gun control index. These weights are given in Table A–1. Table A–2 lists for each index the gun control coefficient and the probability of its sign error for each crime or death rate.

TABLE A–1.—WEIGHTS FOR THE GUN-CONTROL INDEXES

Legislative category	Index 1	2	3	[1] 4	5	6	7	8	9	10
1 Concealed:										
(a) License	2	2	2	2	2	5	2	5	5	2
(b) Prohibition	2	2	2	2	2	5	2	5	5	2
2 Carrying:										
(a) License	4	4	4	4	4	10	4	10	10	4
(b) Prohibition	4	4	4	4	4	10	4	10	10	4
3 Carrying in auto:										
(a) License	2	2	2	2	2	5	2	5	5	2
(b) Prohibition	2	2	2	2	2	5	2	5	5	2
4. Special prohibitions:										
(a) Minors	1	1	1	1	1	1	8	1	8	8
(b) Felons	1	1	1	1	1	1	8	1	8	8
(c) Addicts	1	1	1	1	1	1	6	1	6	6
(d) Alcoholics	1	1	1	1	1	1	6	1	6	6
(e) Mentally ill	1	1	1	1	1	1	6	1	6	6
5. Dealer licensing	2	2	2	8	8	2	2	8	2	8
6. Recordkeeping:										
(a) By dealer	2	2	2	8	8	2	2	8	2	8
(b) By Government agency	2	2	2	4	4	2	2	4	2	4
7. Waiting period:										
(a) Time	1	1	1	1	1	1	1	1	1	1
(b) Notice	2	2	2	2	2	2	2	2	2	2
8. License to purchase	8	4	12	8	4	8	8	8	8	8

[1] This index was reported in the text.

TABLE A–2.—ESTIMATED GUN CONTROL COEFFICIENTS AND PROBABILITIES OF SIGN ERROR FOR ALL INDEXES[1]

Crime or death	1	2	3	4	5	6	7	8	9	10
Homicide by firearm:										
States	−0.176	−0.188	−0.156	[2] −0.176	−0.185	−0.0614	−0.0537	−0.124	−0.0337	−0.0741
1960	.253	.266	.249	.113	.114	.392	.318	.176	.377	.195
States	−.333	−.365	−.287	[2] −.228	−.237	−.249	−.127	−.195	−.117	−.119
1965	.110	.115	.113	.0602	.0619	.138	.137	.0733	.143	.0876
Total homicide:										
States	−.220	−.220	−.204	[2] −.228	−.236	−.0684	−.0597	−.159	−.0335	−.0912
1960	.283	.307	.270	.140	.144	.417	.357	.205	.415	.233
States	−.0787	−.0278	−.103	[2] −.9051	−.0866	−.0640	−.0210	−.0620	−.0753	−.0375
1965	.412	.472	.369	.310	.334	.491	.444	.361	.479	.371
Cities	−.418	−.436	−.374	−.261	−.260	−.370	−.0424	[2] −.245	−.0548	−.0749
1960	.176	.204	.164	.151	.167	.169	.419	.146	.391	.318
Suicide by firearm:										
States	−.920	−.995	[2] −.808	−.488	−.491	−.770	−.368	−.448	−.359	−.288
1960	.0177	.0231	.0167	.0221	.0277	.0189	.0251	.0217	.0222	.0225
States	−.866	−.894	[2] −.785	−.472	−.470	−.689	−.322	−.420	−.307	−.261
1965	.0185	.0290	.0149	.0183	.0247	.0244	.0353	.0208	.0343	.0261
Total suicide:										
States	−.868	−.868	[2] −.803	−.389	−.365	−.742	−.369	−.368	−.362	−.259
1960	.0414	.0644	.0320	.0814	.107	.0400	.0424	.0741	.0377	.0573
States	−.783	−.474	−.747	−.286	−.251	−.693	−.351	−.287	[2] −.347	−.221
1965	.0702	.108	.0529	.163	.207	.0595	.0601	.139	.0518	.0995
Cities	−1.45	−1.34	−1.38	−.559	−.467	[2] −1.44	−.387	−.616	−.449	−.264
1960	.0100	.0334	.0044	.0557	.106	.0032	.0905	.0283	.0505	.115
Accidental death by firearm:										
States	−.429	−.436	−.391	−.196	−.187	−.323	−.192	−.170	−.178	−.135
1960	.0215	.0355	.0164	.0478	.0661	.0363	.0166	.0574	.0193	.0253
States	−.302	−.332	−.261	[2] −.167	−.171	−.239	−.239	−.132	−.117	−.0988
1965	.0084	.0099	.0089	.0073	.0087	.0122	.0107	.0088	.0107	.0075
Aggravated assault by firearm:										
States	.0732	−.0852	.162	−.423	[2] −.513	−.167	.253	−.428	.176	−.0116
1965	.483	.483	.457	.327	.302	.454	.366	.309	.401	.492
Total-Aggravated Assault:										
States	10.3	10.5	9.38	3.00	2.65	7.09	[2] 4.85	2.44	4.31	2.77
1965	.100	.123	.0903	.248	.284	.147	.0780	.272	.0917	.144
Robbery										
States	1.17	.168	[2] 1.68	−.418	−.802	.483	.462	−.467	.336	−.0038
1965	.415	.489	.362	.444	.399	.458	.421	.432	.440	.499
Mean index: States, 1965	10.9	10.1	11.3	17.5	16.5	14.4	25.3	21.1	30.1	32.2
Estimated lives saved per year [3]	2,830	2,040	3,340	1,950	1,520	2,670	2,070	1,900	2,390	1,890

[1] The upper number of each pair is the estimated coefficient; the lower number is the probability of sign error.

[2] Highest R^2 of all indexes.

[3] This number estimates the additional lives that would have been saved if the gun control laws of New Jersey had been applied nationwide in 1965.

The next to last line of Table A–2 gives the mean value of the index for states in 1965. Some variation among estimated coefficients is due to changes in this average value.

The probabilities of sign error indicate that some of our conclusions, viz, gun control cuts down suicide and accidental death by firearm rates and has little influence on robbery and aggravated assault by firearm, would have been reached regardless of the index chosen. Homicides and total aggravated assaults are a different matter. For these crimes, the choice of index can make a considerable difference in the estimated effect of gun control. In total homicides—states—1960, for example, all the estimated coefficients are negative but the probability that the true coefficient is negative ranges from .14 (index 4) to .42 (index 6).

We attempted to use variations among indices to make inferences about the relative effectiveness of different types of laws. Indexes 4 and 5, for example, which weight dealer licensing and record keeping relatively heavily, generally perform well for homicide. On the other hand, index 3, which weights license to purchase very heavily, seems to do well with respect to suicides.

Unfortunately, when we employed more refined techniques in an attempt to isolate the effect of each type of law, we could obtain no significant or even meaningful results.[70] This failure may have been due to multicollinearity among individual law categories (a statistical difficulty) or to some circumstance such as interactions of laws which make combinations more effective than the sum of effects of individual laws.

Finally, we should mention that standard tests of regression model were made. We checked the assumption of normal disturbance terms with chi-square tests and normal probability plots of the residuals. Linearity assumptions were checked with residual plots. The regression assumptions were well approximated in all cases.

FOOTNOTES

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[1] For a general background to the gun control controversy see *Congress and "Gun Control" Proposals*, 45 CONG. DIG. 289 (1966); *Congress and the National Crime Problem*, 46 CONG. DIG. 193 (1967); Harris, *Annals of Legislation—If You Lose Your Guns*, THE NEW YORKER, Apr. 20, 1968, at 56.

[2] *See* THE TRUE FACTS ON FIREARM LEGISLATION, THREE STATISTICAL STUDIES (National Shooting Sports Foundation, Inc., 1968).

[3] M. WOLFGANG, PATTERNS IN CRIMINAL HOMICIDE (1958). "[F]ew homicides due to shootings could be avoided merely if a firearm were not immediately present . . . the offender would select some other weapon to achieve the same destructive goal. Probably only in those cases where a felon kills a police officer, or vice versa, would homicide be avoided in the absence of a firearm." *Id.* at 83.

[4] The basic statistical technique used in this study was multiple linear regression. See notes 48–51 *infra* and accompanying text. *See generally* A. GOLDBERGER. ECONOMETRIC THEORY (1964).

[5] Sources of all data are available from the authors on request.

[6] Mean annual degree days are calculated as follows: If the temperature is below 65° F., subtract the temperature from 65. If the temperature is above 65°, a value of zero is assigned. These daily averages are then added to determine the total number of degree days for the year. Thus, the colder the climate the greater is the number of mean annual degree days.

[7] For "States 1965", only 1960 age, education, race and police data were available. Data for all other explanatory variables were for the same year as the death and crime data.

[8] Ch. 757, 48 Stat. 1236 (1934). *Presently codified as* Pub. L. No. 90–618, § 201 (1968 U.S. CODE CONG. & AD. NEWS 1413–24), *amending* 26 U.S.C. §§ 5801–5862.

[9] Ch. 850, 52 Stat. 850 (repealed in 1968). The basic provisions of the Act are now contained in the Gun Control Act of 1968, Pub. L. No. 90–618, §§ 101–302 (1968 U.S. CODE CONG. & AD. NEWS 1397–1424). This Act amended Title IV of the Omnibus Crime Control & Safe Streets Act of 1968, Pub. L. No. 90–351, 18 U.S.C.A. §§ 921–28 (Supp. 1968), which had repealed the Federal Firearms Act of 1938.

[10] C.F.R. 125.5 (1968). Prior to 1968 no restrictions were placed on interstate firearm shipments by common carrier. The chief effect of the postal regulations was to send the purchasers of handguns by mail to the Railway Express Agency rather than the post office.

[11] Gun Control Act of 1968, Pub. L. No. 90–618 §§ 101–302 (1968 U.S. CODE CONG. & AD. NEWS 1397–1424), *amending* 18 U.S.C.A. §§ 901–28 (Supp. 1968).

[12] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1404–05) (18 U.S.C.A. §§ 922(d), (f) & (h)).

[13] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1401) (18 U.S.C.A. § 922(a)(3)).

[14] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1401–02) (18 U.S.C.A. § 922(a)(5)).

[15] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1404) (18 U.S.C.A. § 922(d)).

[16] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1406–09) (18 U.S.C.A. § 923).

[17] *Id.* (1968 U.S. CODE CONG. & AD. NEWS at 1402, 1406–07) (18 U.S.C.A. §§ 922(b)(4), 923(a)).

[18] See note 8 *supra* and accompanying text.

[19] OHIO REV. CODE ANN. §§ 2023.01-.06 (Page 1954 & Supp. 1968).

[20] MINN. STAT. ANN. §§ 609.66–.67 (1964).

[21] KY. REV. STAT. ANN. § 435.230 (1963).

[22] N.J. STAT. ANN. §§ 2A:151–1 to 151–56 (1953 & Supp. 1968).

[23] HAWAII REV. LAWS §§ 157–1 to –33 (1955).

[24] MICH. COMP. LAWS §§ 28.421–434, 750.222–.239 (1967 & Supp. 1968).

[25] *See. e.g.*, CONN. GEN. STAT. ANN. §§ 53–203, 53–204, 53–207 (1960); IOWA CODE ANN. § 110.23 (1949); N.Y. PENAL LAW § 265.35 (McKinney 1967).

[26] State data was obtained from ROSENTRATER, SAYLES & CONNER, STATE FIREARMS CONTROL A COMPILATION OF DIGESTS OF STATE LAWS (Library of Cong. Legis. Reference Service, 1968). *See also* Note, *Firearms: Problems of Control*, 80 HARV. L. REV. 1328, 1336–42 (1967); Note, *Firearms Legislation*, 18 VAND. L. REV. 1362, 1366–69 (1965).

[27] City data was obtained through correspondence with city solicitors. Replies were received from 94 cities. Of the 94 replies, 58 stated that there were no local firearms regulations. The other 36 replies either summarized or enclosed copies of local firearms regulations. Only 14 of the cities with regulations fitting within the categories of Table 1 were located in states which did not have similar regulations.

[28] Category 3 (carrying—motor vehicle) includes only states and cities within category 1 (concealed) with laws which expressly restrict the carrying of firearms in motor vehicles. Category 3 does not include laws which generally prohibit the carrying of concealed weapons even though such laws may be construed to prohibit carrying concealed weapons in a motor vehicle, particularly if the weapon is within reach of occupants of the car. States within category 2 (carrying) usually prohibit the carrying of handguns on the person and in a motor vehicle.

[29] Generally state and city laws within the first three categories of Table 1 exempt law-enforcement officers military personnel private guards and persons carrying firearms at their home or place of business. *See e.g.*, CAL. PENAL CODE §§ 12026–27 (West 1956); New York is the only state which requires a license to possess a handgun in the home or place of business. N.Y. PENAL LAW §§ 265–05 (3), 400.00(2) (McKinney 1967).

[30] *Sec., e.g.*, CAL. PENAL CODE §§ 12021, 12050, & 12072 (West 1956) (license to carry may be issued to person of good moral character, but restrictions as to minors, addicts and felons); CONN. GEN. STAT. ANN. § 29–29 (1960) (no permit shall be issued if the applicant has ever been convicted of a felony); IOWA CODE ANN. § 695.26 (Supp. 1968) (sale to minors forbidden).

[31] *See, e.g.*, CAL. PENAL CODE § 12050 (West 1956); ME. REV. STAT. ANN. tit. 25, § 2031 (Supp. 1967); N.Y. PENAL LAW § 400.00 (McKinney 1967).

[32] *See, e.g.*, WASH. REV. CODE ANN. § 9.41.070 (1961) (for purposes of protection, or while engaged in business, sport or while traveling).

[33] *See, e.g.*, IOWA CODE ANN. § 695.20 (1950); WASH. REV. CODE ANN. § 9.41.070 (1961).

[34] Minors, as defined by the various states, range from persons under fourteen to persons under twenty-one. Also, some states exclude from the law's prohibitions minors with parental consent to purchase and possess firearms. Certain states limit restrictions against felons to persons who were convicted of crimes of violence within a specified time; restrictions against addicts to persons convicted under narcotics laws; restrictions against alcoholics to persons under the influence of alcohol; and restrictions against the mentally ill to persons committed for mental disorder. Other states either do not define these terms or use broader definitions. *See generally* Note, *Firearms: Problems of Control*, 80 HARV. L. REV. 1328 (1967).

A state is within a sub-category of category 4 (Table 1) if it requires a license to purchase handguns and prohibits the issuance of such a license to persons covered by the subcategory. A state is not included within a subcategory of category 4, however, if it only prohibits persons within the sub-category from receiving a license to carry handguns.

[35] *See* CAL. PENAL CODE §§ 12021, 12072 (West 1956).

[36] *See, e.g.*, N.Y. PENAL LAW § 400.00(1) & (2) (McKinney 1967). A South Carolina law repealed in 1965 prohibited the sale but not the possession of handguns within the state. Since South Carolina was the only state to prohibit sales, Table 1 does not have a separate category to cover this type of restriction. Since category 5 appeared to be the most appropriate category, South Carolina was included therein.

[37] *See* N.Y. PENAL LAW § 400.00(1) (McKinney 1967).

[38] See note 9 *supra* and accompanying text.

[39] *Hearings Before the Subcomm. to Investigate Juvenile Delinquency of the Senate Comm. on the Judiciary*, 88th Cong., 1st Sess., pt. 14, 3209–10, 3426 (1963).

[40] *See, e.g.*, ILL. ANN. STAT. ch. 38, § 24–4 (Smith-Hurd 1964); N.C. GEN STAT § 14–406 (1953).

[41] *See, e.g.*, IOWA CODE ANN. § 695.21 (1950).

[42] *See, e.g.*, CONN. GEN. STAT. ANN. § 29–33 (Supp. 1969) (one week waiting period following mailing of application for purchase); OREG. REV. STAT. § 166.470 (1965) (firearm shall not be delivered to purchaser on the day of the application for its purchase).

[43] *See e.g.*, WASH. REV. CODE ANN. § 9.41.070 (1961).

[44] *See, e.g.*, N.Y. PENAL LAW § 400.00 (McKinney 1967); N.C. GEN STAT. § 14-402 (Supp. 1967).

[45] *See, e.g.*, N.C. GEN. STAT. § 14-403 (Supp. 1967).

[46] For an example of a statute which is very specific as to who may obtain a license to purchase, see N.J. STAT. ANN. §§ 2A:151-33 to 2A:151-39 (Supp. 1968). For a more "general" statute, see N.C. GEN. STAT. §§ 14-402, 14-404 (Supp. 1967).

[47] *See, e.g.*, N.J. STAT. ANN. § 2A:151-36 (Supp. 1968).

[48] For a description of multiple linear regression, see J. JOHNSTON, ECONOMETRIC METHODS 106-42 (1960).

[49] *Id.* at 108-09.

[50] "Probability of sign error" is not the conventional interpretation of the numbers given here. They are usually termed "levels of significance," and the interpretation of them is somewhat different. The terminology used herein results from a Bayesian approach to the regression problem in which the parameters are considered random variables. The prior distributions which the authors have implicitly used here are locally uniform probability measures.

[51] The number is R^2 adjusted for degrees of freedom. *See* A. GOLBERGER, ECONOMOMETRIC THEORY 217 (1964).

[52] See Appendix, Table A-2.

[53] Set 4 best explained homicide by firearm, (i.e., had the highest R^2), and total homicide for the states (1960 & 1965), and accidental death by firearm (1965). Set 3 best explained suicide by firearm for the states (1960 & 1965), total suicide (1960), and accidental death by firearm (1960).

[54] The material appearing in the Results section are based upon the use of the set of weights for the various categories of gun control legislation listed in Table 2 (Index 4).

[55] The 95% confidence interval is the range within which there is a .95 probability that the true coefficient will lie. The probability of sign error, as previously indicated, reflects the chance that the sign of the estimated coefficient is incorrect.

[56] All relationships reported in this study are conditional because the effects of other demographic variables are taken into account.

[57] The estimates on lives saved include lives *already* saved by existing gun control legislation. In 1965 in the United States there were approximately, per 100,000 population, 3.05 homicides by firearms, 5.5 total homicides, 5.02 suicides by firearm, 11.1 total suicides, and 1.2 accidental deaths by firearm. *See* 1967 STATISTICAL ABSTRACT OF THE UNITED STATES 59, 168 (U.S. Dep't of Commerce).

[58] In Zimring, *Is Gun Control Likely to Reduce Violent Killings?* 35 U. Chi. L. Rev. 721 (1968), the author describes a study measuring the effectiveness of substituted weapons based on data from reported homicides and serious assaults.

[59] A third explanation for the direct relationship between gun control and aggravated assaults is that stringent regulation of weapons increases crime by reducing the number of persons possessing firearms for protection. However, the findings on robbery (see Table 8 and the textual discussion appurtenant thereto) are not consistent with such an explanation.

[60] Significant positive coefficients for the number of police personnel is not necessarily indicative of a causal relationship. Another explanation is that states and cities with high death and crime rates employ more police personnel in an attempt to reduce these rates, but that such additions to police forces are not significantly effective.

[61] In a separate tabulation, a dummy variable for the eleven states which formed the Confederacy was included. Results obtained indicated that homicides and aggravated assault rates are positively related to these eleven states; that accidental death by firearm is negatively related to these states; and that robbery and suicide are unrelated to these states.

These results do not weaken the conclusions of this paper concerning the effectiveness of gun control because the stringency of gun control legislation in the eleven Confederate states and in the remaining states is not dissimilar. The mean index value of gun control legislation for the fifty states based upon the set of weights reported in the text was 17.5. In comparison, for the eleven Confederate states the mean index value was 14.2, and for the seven Confederate states with the highest homicide rate the mean index value was 16.6.

[62] THE TRUE FACTS ON FIREARM LEGISLATION—THREE STATISTICAL STUDIES (National Shooting Sports Foundation, Inc., 1968), 114 CONG. REC. H570 (Jan. 30, 1968) [hereinafter cited as TRUE FACTS]. *See* Zimring, *Games with Guns and Statistics*, 1968 WIS. L. REV. 1113.

[63] Krug, *The Misuse of Firearms in Crime*, in TRUE FACTS.

[64] Krug, *The Relationship Between Firearms Licensing Laws and Crime Rates*, in TRUE FACTS.

[65] Krug, *The Relationship Between Firearms Ownership and Crime Rates: A Statistical Analysis*, in TRUE FACTS.

[66] See note 57 *supra*.

[67] Zimring, *Games With Guns and Statistics*, 1968 WIS. L. REV. 1113.

[68] During 1965, 79% of all murder victims were acquainted with the offender. Killings resulting from robberies, sex motives, gangland slayings, and other felonious activities accounted for only 16% of the total of reported homicides. *See* REPORT BY THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF JUSTICE. THE CHALLENGE OF CRIME IN A FREE SOCIETY 39 (1967).

[69] The index reported in the text, number 4, ranked seventh out of ten in terms of estimated total lives saved.

[70] We tried entering each legislative category as a "dummy variable" and we also split the categories into blocks and attempted to measure the effect of each block independently.

INDIANS

Mr. KENNEDY. Mr. President, Vine Deloria, Jr., a Standing Rock Sioux Indian, wrote mockingly in his recent book "Custer Died for Your Sins":

There appears to be some secret osmosis about Indian people by which they can magically and instantaneously communicate complete knowledge about themselves to these interested whites. Rarely is physical contact required. Anyone and everyone who knows an Indian or who is *interested*, immediately and thoroughly understands them.

In fact, Mr. Deloria makes it clear that we have not begun to understand the desires, the traditions, even the needs of the Indian people. More importantly, we have shown a callous—almost wanton—disregard for those desires, traditions, and needs.

Mr. Deloria's article in the New York Times magazine for December 7, 1969, highlights a number of issues dealt with in his book, focusing especially on Government policies resulting in dissipation of the Indian's land and water resources. He begins to roll back the carpet from over a century of sweepings, and vividly relates the Indian's cry to our society at large. We are listening to this cry; we will try to understand.

I ask unanimous consent that the Times magazine article be included in the RECORD at this point, because of its utility in pointing up so many of the misunderstandings which have characterized our Government's management of American Indian affairs.

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

THE WAR BETWEEN THE REDSKINS AND THE FEDS

(By Vine Deloria, Jr.)

If Secretary of the Interior Walter Hickel has any sense of history, he must have been impressed with his situation at the convention of the National Congress of American Indians held earlier this fall in Albuquerque, N.M. Not since George Armstrong Custer's sensitivity-training session on the banks of the Little Big Horn had so many angry Indians surrounded a representative of the United States Government with blood in their eyes. Of the estimated million Indians in the United States, the N.C.A.I. represents the reservation population of some 400,000. With spokesmen for the remaining urban and other Indian communities of the East (500,000 urban Indians and 100,000 scattered Eastern bands) attending the convention, Hickel was greeted by representatives of the entire Indian community, including Eskimos, Indians and Aleuts from his home state of Alaska.

All summer, tension had been building within the Indian community as the tribes fearfully awaited the pronouncement of Indian policy by the new Nixon Administration. During the 1968 Presidential campaign Nixon had promised that, if elected, he would not unilaterally sever Federal relations with the tribes, nor would he allow the tribes to be pressured to alter the relationship themselves. Indian leadership, recalling that Nixon had been Vice President during the Eisenhower Administration, when the hated policy of termination of Federal responsibilities for Indians had been forced on the unwary tribes, was alerted for any signs of change, and skeptical of the "New Federalism."

Hickel's performance in 1969 appeared to have justified Indian suspicions. In late July, at a Western Governors' Conference in Seattle, he characterized the relationship of the Federal Government as "overprotective" of Indian rights. With a foot-in-mouth aplomb so characteristic of some of Nixon's interchangeable Cabinet members, Hickel compounded this error by labeling the reservations as "crutches" by which Indians avoided their full responsibilities as citizens.

By late summer, the moccasin telegraph was buzzing with rumors that the new Secretary of the Interior was a "terminationist," and that a great battle over the very existence of the reservations was imminent. Indian reservations have a total land base of more than 52 billion acres, scattered in 26 states and providing a home for people of 315 different tribal groups. The life expectancy of a reservation Indian is 46 years, rising nearly a year each year under current programs. Although the average income is slightly over $1,500 per family annually, and the housing is generally substandard, the reservations are all that remain of the continent the Indians once owned, and they are determined to fight for every handful of dust that remains.

The National Traditionalist Movement, spearheaded by the Iroquois League, called for Hickel's removal from office. The Iroquois (the only Indian tribe to declare war on Germany in 1917) set a strong nationalistic tone to the resistance, which quickly sprang up in Indian country.

From the urban Indian centers on the West Coast, the third-world-oriented United Native Americans took up the battle cry. "IMPEACH HICKEL" bumper stickers blossomed beside "Red Power" and the multitude of "Custer" slogans on Indian cars. Petitions

calling for Hickel's removal began to circulate on the Coast.

As the N.C.A.I. convention opened, there was considerable discussion by the delegates as to the length at which Indians should *stabilize* Hickel's hairline. This remark was an obvious reference to Hickel's conception of his role as trustee in defending the water rights of the Pyramid Lake Paiutes of Nevada. The Pyramid Lake tribe has a beautiful lake, the largest fresh-water lake in the state. For the major part of this century it has tried to insure that sufficient water is delivered to the lake to maintain its excellent cutthroat trout fishery and its flocks of pelicans. But the Federal Government has continually refused to defend the tribe's water rights by allowing other users to take water which is rightfully owned by the Paiutes. Consequently, the lake has had a declining shoreline for most of the century, a condition that precludes development of the reservation for recreation purposes.

Hickel's solution, proposed after a meeting with Governors Reagan of California and Laxalt of Nevada, was to reduce the water level 152 feet, creating a mud flat of 40,000 acres and thus "stabilizing" the water level. It was the same logic used by the Army to destroy a Vietnamese village—"We had to destroy the village to save it." It naturally followed that the only way to save Pyramid Lake was to drain it.

With these remarks to his credit, it is a wonder that Hickel was the recipient of only sporadic boos and catcalls when he attempted to address the Indian convention. No one even speculated on the possibility of a canine ancestor in Hickel's immediate family tree. "Terminationist" is a much dirtier word in the Indian vocabulary.

Wally Hickel is not that bad a guy. He was genuinely puzzled by the reactions which his remarks had created in the Indian community. In his own mind he was simply searching for a new approach to a problem that he, as Secretary of the Interior, had a responsibility to resolve. But he had unexpectedly hit the one nerve which had been frayed raw by a century of abuse and betrayal: the treaty-trust relationship between Indians and the Federal Government.

Hickel's remarks at Seattle and on the water problems in Nevada prior to the meeting of the National Congress of American Indians fitted exactly into prior speeches and problems of other times and places which had resulted in policies and programs destructive of the reservation communities. He could not have said anything more inflammatory than that the Federal Government had been "overprotective" of Indian rights, implying that the Government would be less zealous in fulfilling its responsibilities during his tenure as Secretary of the Interior.

Had Hickel been thoroughly briefed on the sterling record his predecessors had achieved, it is doubtful that he would have made the "overprotective" statement. The Government has been overprotective of Indian rights only in the sense that John Dillinger "overprotected" banks by robbing them before other criminals showed up.

In 1908 the Supreme Court decided the case of *Winters v. United States* in which Indian water rights were given priority over any other rights on streams running through Indian reservations. It has been clear, therefore, for most of this century, that the Pyramid Lake Paiutes have first priority for sufficient water in the Truckee-Carson river system to stabilize their lake *at the level at which it stood when the reservation was established*. Yet Interior had watched as the Indian water went elsewhere and the lake declined precipitously each year.

In 1924 the Secretary of the Interior was authorized to construct the Coolidge Dam in Arizona. In the authorizing legislation it clearly stated that the project was "for the purpose, first, of providing water for the irrigation of lands allotted to Pima Indians on the Gila River Reservation, Arizona." The Federal Government delivered just about enough water for Ira Hayes, Pima Indian and Marine hero of Iwo Jima, to drown in. Never was there any good faith by the Government to help the Indians irrigate their lands. Consequently, the water made available by the project went to non-Indians residing off the reservation.

With water the crucial element in the development of Indian reservations, the concept of "overprotection" appears nonsensical in view of the fact that, attached to every major Interior Department appropriation bill is a little rider stating that no Federal funds can go to develop the water rights of the tribes in California, Oregon and Nevada. Indian reservations thus lie dormant and undeveloped in those states, while non-Indians have sufficient water to develop their own lands.

To add to the irony of the "overprotection" which Indian people supposedly receive is the fact that, when the United States has to deal with foreign nations, it presents a clean and pious front. In 1913 the case of the Cayuga Nation, member of the Iroquois League, came before the American-British Claims Arbitration. The British Government wanted just compensation from the United States under the provisions of the Peace of Utrecht for lands which the state of New York took from the Cayugas after the War of 1812.

In the appendix to the answer filed by the United States to the British complaint, the Government declared:

"Under that system the Indians residing within the United States are so far independent that they live under their own customs and not under the laws of the United States; that their rights upon the lands which they inhabit or hunt are secured to them by boundaries defined in amicable treaties between the United States and themselves; and that whenever those boundaries are varied, it is also by amicable and voluntary treaties, by which they receive from the United States ample compensation for every right they have to the lands ceded by them."

Traditionally, Indian tribes had been treated in this manner. They were early regarded as distinct and sovereign nations fully capable of entering into compacts, agreements and contracts with the United States. The Delaware Treaty of 1778, the earliest published treaty, spoke of "peace and friendship" which was necessary between the peoples of the United States and the tribe. It described the Delawares as being "dependent upon the (United States) for all articles of clothing, utensils and implements of war." It was fundamentally a trade agreement.

Until 1871 the tribes were treated as sovereign yet dependent domestic nations with whom the Federal Government was bound to treat for land cessions. In the treaties, the Government accepted the responsibility to protect the lands reserved by the tribes for their own use against encroachments by its own citizens. In that year, however, Congress decided that it would sign no more treaties with tribes. Instead, a policy emerged aimed at breaking up the tribal structures, even though the United States had promised in good faith that it would not interfere with traditional tribal customs and laws.

The shift in policy placed major emphasis on enticing, threatening, or deceiving individual Indians into forsaking their tribal relations. A comparable situation would exist if the Government refused to recognize General Motors as a corporation and insisted that it would become concerned with the individual stockholders, enticing them to sell their stock and liquidating the assets of the corporation, all the while wondering why General Motors was declining as an economic entity.

The tribes fought back. Asserting that the treaties were contracts between two parties, the tribe and the Federal Government, they often punished with death any leaders who signed away tribal rights. While fundamental logic supported the tribal position, overwhelming power and deceit by Government officials were able to carry the day. The treaties had been signed by nations, not an arbitrary conglomerate of individuals. Yet the official Federal policy was to assimilate individual Indians even if their rights as members of tribes had to be breached.

A major influence against the tribes was the ideology of the missionaries who were attempting to force their own ideas of culture on the captive audiences on the reservations. The missionaries believed that only by inculcating selfishness and the concept of private property into tribal society would individual Indians be able to become Christians and be saved.

Church pressure to individualize the tribes and dispose of the tribal land estate resulted in the passage of the Dawes Act in 1887. This act divided the reservations up into allotments of 160 acres, and each Indian was given a piece of land for farming. The remainder of the tribal holdings was declared "surplus" and opened to settlement by non-Indians.

Before allotment was forced on the tribes, there was no poverty on the reservations. The minority report issued against the policy mentioned the complete absence of pauperism among the Five Civilized Tribes of Oklahoma. It suggested that the Indian method of holding land for an entire community might be superior to the idea of non-Indian society, in that this method precluded a class of people that was perennially poor, while non-Indian society was plagued with poverty in its lower economic class.

The effect of individualizing the tribal estate was the creation of extreme poverty on many of the reservations. Individual Indians, unaccustomed to viewing land as a commodity, were easily swindled out of their allotments. Good farm land often went for a bottle of liquor, white trustees of individual Indian estates often mysteriously inherited their wards' property, and dying Indians were known to have mysteriously given their lands to churches before expiring. One Indian commissioner trod on eggshells during his term because a half-million-dollar Indian estate passed on to a missionary society instead of to the Indian heirs. Between 1887 and 1934 some 90 million acres of land left Indian ownership in a variety of ways. The actual circumstances in some cases have never seen the light of day.

Indians who sold their lands did not merge into white society and disappear. They simply moved onto their relatives' lands and remained within the tribal society. Thus, the land base was rapidly diminishing while the population continued to remain constant and, in some cases, grew spectacularly.

The situation had become so bad by 1926 that a massive study was authorized. It was called the Meriam Survey, and it pointed out that if the allotment process was not solved, the United States would soon have on its hands a landless, pauperized Indian population totally incapable of succeeding in American society.

In 1933, the New Deal Administration appointed John Collier as Indian Affairs Commissioner. He helped to write into law the basic charter of Indian rights called the Indian Reorganization Act. Indian tribes were given status as Federal corporations under this act, allotment was stopped and efforts were made to rebuild a land base for the Indian communities.

Tribal governments allocated a substantial portion of tribal income to purchase the allotments of individual Indians, thus holding in Indian hands the land that would have been lost forever. Tribes began their gradual revival of traditional ways, and were making excellent progress when World War II caused a dreadful reduction in domestic

spending. Programs could not be funded until after the war.

In 1954 the chairmanship of the Indian Subcommittee of the Senate Interior Committee was taken over by Senator Arthur Watkins of Utah. Watkins was an archconservative who understood nothing of Indian treaties, was contemptuous of Indian people, and was determined to solve the "Indian problem" in his short tenure as chairman of the committee. He began a unilateral war against Indian communities that was known as "termination."

Watkins visualized himself as the Abraham Lincoln of the 20th century. Characterizing the reservations as havens of irresponsibility, and accepting the thesis that the Federal Government had been too protective of Indian rights, the Senator was determined to break the long-standing commitments of the United States to its Indian tribes—whether it was just or not.

"With the aim of 'equality before the law' in mind, our course should rightly be no other," Watkins announced. "Firm and constant consideration for those of Indian ancestry should lead us all to work diligently with all other Americans. Following in the footsteps of the Emancipation Proclamation of 94 years ago, I see the following words emblazoned in letters of fire above the heads of the Indians—these people shall be free."

If Watkins was determined to *free* the Indians, he was a generation too late. In 1924 the Indian Citizens Act was passed making all noncitizen Indians American citizens with full rights and privileges. The act further declared that the "granting of such citizenship shall not in any manner impair or otherwise affect the right of any Indians to tribal or other property."

The Indian Citizens Act thus gave full constitutional rights to individual Indians insofar as they were individuals. It specifically exempted any rights that individual Indians may have had in tribal property from its operation. The dual citizenship of Indian people was thus recognized.

But Watkins was convinced that holding an interest in tribal property in addition to holding citizenship was a handicap. Under this theory, everyone who benefited from a trust fund was automatically a second-class citizen.

A number of tribes fell victim to Watkin's crusade. The Menominees owned a forest in Wisconsin. They had a tribal sawmill and operated it to provide employment for tribal members, rather than to make a profit—although with their exemption from corporate taxation they often showed a profit. The tribe spent most of its income on social services, supporting its own hospital and providing its own law enforcement on the reservation. It was more genuinely a self-supporting community than many non-Indian communities near it.

Termination of Federal supervision meant an immeidate tax bill of 55 per cent on the sawmill. To meet this, the saw mill had to be automated, thus throwing a substantial number of Indians out of work and onto the unemployment rolls. To meet the rising unemployment situation, the only industry, the sawmill, had to be taxed by the county. There was an immediate spiral downward in the capital structure of the tribe so that, in the years since the termination bill was passed, it has had to receive some $10-million in special state and Federal aid. The end is not yet in sight.

When the smoke had cleared, some 8,000 Indians had been deprived of rights their grandfathers had dearly purchased through land cessions. The Paiutes of Utah and Klamaths of Oregon were caught in a private trusteeship more restrictive than their original Federal trust relationship, from which they were to have been "freed." Fortunately, Texas made a tourist attraction out of the Alabama-Coushatta reservation in that state, thus preserving most of the tribal assets. The mixed-blood Utes of Utah formed their own organization and tried to remain together as a community. The Siletz and Grande Ronde Indians of Oregon, the California Indians, and the Catawbas of South Carolina simply vanished. Menominee County became the most depressed county in the nation.

In Watkins' mind, and in the mind of his successors on the Senate Interior Committee, the opportunity to remake American Indians into small businessmen was too much of a temptation. The termination policy continued to roll in spite of its catastrophic effects on the Indian communities.

Tribes refused to consider any programs, feeling that it was no use to build good houses when the reservation might be sold out from under them at any time. Development schemes to upgrade reservation resources were turned down by people with no apparent future. The progress which had been made by the tribes under the Indian Reorganization Act ground to a halt. Indian people spent a decade in limbo, hesitant to make any plans for fear they would come under attack by the irrational policy.

Watkins' rationale at the beginning had been that he was making the individual Indians first-class citizens, where they previously had been handicapped by maintaining their tribal relationships. It was the same reasoning that had led policy-makers in the last century to force allotment on the tribes and create the original poverty conditions on the reservations. When the termination legislation was finally drawn for the Menominees, the concluding phrase in section 10 of the bill was illuminating: "Nothing in this act shall affect the status of the members of the tribe as citizens of the United States"!

The argument of "freeing" the Indians was as phony as could be. The act did nothing but dissipate tribal capital and destroy the rights of Indian tribes to have their own communities. But termination fitted exactly into the integrationist-thought world of the period, and the expanding Civil Rights movement of the black community, which had been given impetus by the decision of *Brown v. Topeka Board of Education*, the famous school desegregation case of 1954. So it *seemed* the right thing to do.

Society has come a long way in its understanding of itself since 1954. The ensuing civil rights movement, which has shaken the foundations of society during the nineteen-fifties, changed abruptly into the black power movements of the late sixties. For half a decade we have been struggling to define the place of a group of people in American society and, as numerous reports have indicated, the divisions in the society have become more pronounced, the hatreds more violent and lasting.

Termination slowed down during the Kennedy-Johnson Administrations, but the basic Congressional directive has never been changed. Policymakers in Congress and in the Interior Department continue to regard decisions made in haste in 1954 as imperatives which they must follow today. Only by a vigilant National Congress of American Indians watching the Washington scene day and night have Indian people been able to stop further implementation of this policy.

Walter Hickel, in his casual remarks, stirred up a hornet's nest of Indian concern. It did not seem possible to tribal leaders that the new Administration would return to a policy proven bankrupt when it was applied to their land holdings in 1887, again proven bankrupt in 1954 with the further dissipation of their remaining lands and resources, and completely out of tune with the social movements of today.

Indian tribes have been able, in spite of all pressures exerted against them, and the failure of the Federal Government to defend their rights, to maintain a capital in land and resources by which they can maintain their own communities. They have been able to keep tribal governments alive and functioning. In the War on Poverty, tribes provided services for all people within reservation boundaries, red or white, and many children received services that they would not have otherwise received because their counties did not want to sponsor programs under the Office of Economic Opportunity.

The record of Indian people as a recognized self-governing community is enlightening. The progress of the last decade is spectacular and sophisticated for a people with a national average of eight years of education. Indian people are now demanding control of education programs through the creation of Indian reservation school boards. They are certain they can do better than either the state or Federal education they have been given in the past. The variety of projects undertaken by Indian communities is staggering and encompasses everything from sawmills to ocean-going fishing vessels, motels to carpet factories.

American society has much to learn from Indian tribes. It may all be lost if another era of struggle over reservation existence is initiated. The black community, spearheaded by the demands for reparations by James Forman, is desperately seeking capital funds. Indian tribes already have capital in land and resources and have demonstrated how well it can be used.

Blacks and Mexicans are developing rural cooperatives in an effort to solve the poverty of their people in the rural areas. Indian tribes have already proven that rural corporations and cooperatives can and do work when undertaken by a united community.

Conservationists are pointing out the rapidly dwindling natural resources of the nation, the danger of total extinction of life unless strong conservation practices are begun at once. The Quinault and Lummi Indian tribes have already zoned their beaches to conserve their natural state, while the White Mountain Apaches have developed nearly 30 artificial lakes and maintain the best fishing and recreation areas in Arizona.

The power movements, the Amish situation in the Midwest, the desire of the Acadians in Louisiana to have French taught in schools, the conflict between the ethnic groups in the urban areas, all point toward new social concepts revolving around a number of ethnic and racial communities desiring to conduct their own affairs. Even the rising conservative trend in politics seeks power at the local level rather than continued direction from long distance.

Tribes have overcome enmities of the past. They were once far deeeper and more bitter than in the current impasse between black and white. Unemployment is declining as tribal programs are committed to creating jobs, not simply making profits. Land is being renewed, beaches and rivers are being cleared and the reservations are becoming models of proper land use. Indian society is stabilizing itself to face the instantaneous electric world of today far better than are other segments of American society.

The Indian outrage at Hickel was a cry to society at large. "If you destroy us," it really said, "you will destroy your last chance to understand who you are, where you have been, and where you have to go next in order to survive as a people." One hopes Secretary Hickel and the Senators and Congressmen will hear this cry and understand.

GRAZING FEES

Mr. METCALF. Mr. President, on November 25, 1969, Secretary of the Interior Hickel advised the chairman of the Senate Committee on Interior and Insular Affairs (Mr. JACKSON) that he had tentatively concluded not to increase grazing

fees on the public lands for 1970. He said he would publish in the Federal Register before December 1, 1969, proposed new rules and afford the public 45 days in which to comment. A Department of the Interior press release outlined the decision.

Mr. President, also on November 25 some of our colleagues spoke to the Senate of Secretary Hickel's action. Their remarks may be found in the CONGRESSIONAL RECORD on pages 35729–31.

At the time I looked for information basic to an informed opinion, having found the Secretary's justification wanting in substance, as we will see. I therefore wrote Secretary Hickel requesting further information.

December 1 came and went, and the proposed rules were not in the Federal Register. They appeared on December 4. Now only 30 days remained for comment, instead of the promised 45.

I ask unanimous consent that the Secretary's letter, the press release, the proposed rules, and my letter, be printed at this point in the RECORD.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., November 25, 1969.

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

DEAR MR. CHAIRMAN: This letter is in further response to your letter of August 7, 1969, enclosing the unanimous resolution by the Senate Interior and Insular Affairs Committee requesting a review of the grazing fee schedule announced on January 14, 1969.

The requested review has been completed by this office. As noted in the resolution, the questions raised before the Committee, considered in connection with the language and legislative history of the Taylor Grazing Act, cast doubt upon the propriety of the 1969 fee schedules. They may not have taken into account consideration of the full purpose and intent of Congress as established in the Taylor Grazing Act and in Title V of Public Law 137, 82nd Congress (65 Stat. 290).

As you are aware, the Public Land Law Review Commission is presently studying the matter and will during calendar 1970 make its recommendations thereon. This Department, of course, is awaiting with great interest the results of the Commission's work.

Meanwhile, we think it appropriate to delay implementation of the next increment until the views of the Commission have been made known and evaluated. At that time, my Department will take such further action as it may determine to be proper.

We plan to publish before December 1, 1969, a proposed rulemaking, copy of which is attached hereto.

We will appreciate your observations.

Sincerely yours,

WALTER J. HICKEL,
Secretary of the Interior.

GRAZING REGULATIONS FOR PUBLIC LANDS—NOTICE OF PROPOSED RULE MAKING

Basis and purpose. Notice is hereby given that pursuant to authority vested in the Secretary of the Interior by the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315), it is proposed to amend and revise the regulations as set forth below.

The purpose of this change is to defer for one year (the grazing use year beginning March 1, 1970) the implementation of annual increment to the range forage fees, in order to permit time for the consideration of the report of the Public Land Law Review Commmission.

It is the policy of the Department, whenever practicable, to afford the public an opportunity to participate in the rule-making process. The Department also desires to conform to the provisions of § 18(b) of the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315o–1), which provides in part that, except in a case where in the judgment of the Secretary an emergency shall exist, the Secretary shall request the advice of the advisory board in advance of the promulgation of any rules and regulations affecting the district.

Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Bureau of Land Management, Washington, D.C. 20240, within forty-five (45) days of publication of this notice in the Federal Register.

Sub-subparagraph (ii) of subparagraph (1) of paragraph (k) of § 4115.2–1 is amended as follows:

§ 4115.2–1 License and permit procedures; requirements and conditions.

* * * * *

(k) *Fees, payments and refunds.*—(1) *Fees.*

* * * * *

(ii) Fees will be established by the Secretary in 9 equal annual increments, effective with the grazing use year beginning March 1, 1971, to attain the fair market value of range forage at the 1979 grazing use year. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar study which may be conducted periodically to update the fee base, if deemed necessary. Annual adjustments may also be made for any of the 1970–79 grazing use years, and thereafter, to reflect current market values.

SECRETARY OF THE INTERIOR.

SECRETARY HICKEL ANNOUNCES PUBLIC LAND GRAZING FEES WILL REMAIN THE SAME THROUGH 1970

Secretary of the Interior Walter J. Hickel announced today that grazing fees on Western public lands will remain at their present rate during the 1970 grazing season.

The Secretary said he had directed his Department's Bureau of Land Management to delay implementation of further scheduled increases for one year.

This action, he explained, will allow the Department of the Interior to evaluate a study and report by the Public Land Law Review Commission on the subject.

The 19-member Commission, composed of Congressional and Presidential appointees, is due to issue its final report in mid-1970 on a wide range of public land matters, including grazing fees.

Secretary Hickel made it clear that he will take into account the Commission's recommendations prior to any future increases, but that his Department will not necessarily be bound by such recommendations.

Last January 14, during the previous Administration, the Bureau of the Budget announced a plan to raise grazing fees in annual increments over a 10-year period beginning March 1, 1969. The 1968 level of fees was 33 cents per animal unit month. The final objective, to be reached in 1978, was to be about $1.25—the amount the Bureau of the Budget considered to be the fair market value of forage grazed by cattle on public lands.

In February, Secretary Hickel went along with the first increment, to 44 cents per animal unit month. He explained at the time that the new grazing season was just about to begin and time did not permit revision of the billing process.

The Secretary emphasized at that time, however, that the Department "will keep this whole matter under review in the future, taking into account new information and new circumstances, including those developed in judicial proceedings, Congressional hearings, and recommendations of the Public Land Law Review Commission."

Today the Secretary said his new order does not change either the rate or the total amount of projected increases, but simply delays their implementation for one year, pending study of the Commission's report.

Had his new order not been issued, the standard BLM grazing fee would have risen under the Budget Bureau formula by at least 9 cents per animal unit month, the base rate, beginning March 1, 1970, plus an adjustment for the current forage price index.

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C., November 26, 1969.

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

DEAR MR. SECRETARY: Chairman Jackson of the Committee on Interior and Insular Affairs has kindly shared with me your 25 November letter requesting observations on your tentative decision to retain the present level of grazing fees for the coming year.

As you know, I am deeply interested in this subject, which is important not only to the stockmen but also to the agencies which share in the revenue from the fees and to the general public.

I will have some comments to make. In order that they be observations that are considered in accordance with the material upon which you based your action and to fulfill the request in our 7 August resolution, will you please supply as soon as possible, a copy of each report or analysis which you had before you when you reached the conclusion outlined in your 25 November letter.

Very truly yours,

LEE METCALF.

[From the Federal Register, Dec. 4, 1969]

GRAZING REGULATIONS FOR PUBLIC LANDS—NOTICE OF PROPOSED RULE MAKING, DECEMBER 2, 1969

Basis and purpose. Notice is hereby given that pursuant to authority vested in the Secretary of the Interior by the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315), it is proposed to amend and revise the regulations as set forth below.

The purpose of this change is to defer for 1 year (the grazing use year beginning March 1, 1970) the implementation of annual increment to the range forage fees, in order to permit time for the consideration of the report of the Public Land Law Review Commission.

It is the policy of the Department, whenever practicable, to afford the public an opportunity to participate in the rule-making process. The Department also desires to conform to the provisions of § 18(b) of the Act of June 28, 1934, as amended (48 Stat. 1270; 43 U.S.C. § 315o–1), which provides in part that, except in a case where in the judgment of the Secretary an emergency shall exist, the Secretary shall request, the advice of the advisory board in advance of the promulgation of any rules and regulations affecting the district.

Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Bureau of Land Management, Washington, D.C. 20240, within thirty (30) days of publication of this notice in the FEDERAL REGISTER.

Subdivision (ii) of subparagraph (1) of paragraph (k) of § 4115.2–1 is amended as follows:

§ 4115.2–1 License and permit procedures; requirements and conditions.

* * * * *

(k) *Fees, payments, and refunds*—(1) *Fees.* * * *.

(ii) Fees will be established by the Secretary in 9 equal annual increments, effective with the grazing use year beginning March 1, 1971, to attain the fair market value of range forage at the 1979 grazing use year. Fair market value is that value established by the Western Livestock Grazing Survey of 1966 or as determined by a similar study which may be conducted periodically to update the fee base, if deemed necessary. Annual adjustments may also be made for any of the 1970–79 grazing use years, and thereafter, to reflect current market values.

WALTER J. HICKEL,
Secretary of the Interior.

Mr. METCALF. Fifteen days have elapsed since Secretary Hickel notified the chairman of the Committee on Interior and Insular Affairs of his decision. Fifteen days have elapsed since I asked Secretary Hickel for a copy of each report and analysis that had been prepared for him. Beyond a routine acknowledgment of my request, there has been no reply.

If the Secretary of the Interior of the United States has access to machines which reproduce documents, I assume it would be a simple matter for someone to run copies of the reports and analyses that resulted in his decision and find a messenger to travel the mile or so between our offices to deliver them to me. Yet my reminders by telephone have failed to produce more than assurances that a reply is in process.

When Interior Secretary Udall announced the grazing fee schedule last year, a substantial amount of information had already been made available to the public. That was responsible administration and a good example. I am at a complete loss to understand why this administration has not answered a simple request for information about the public business, required by Members of Congress who would like sensibly to respond to Secretary Hickel's own invitation to comment.

Even a tentative decision must be justified, particularly when it is a reversal of previous policy and particularly when public comment is invited.

On November 25, Secretary Hickel stated flatly that he had completed his review and indicated that it had cast doubt "upon the propriety of the 1969 fee schedule." He ignored his obligation to say why, notwithstanding a resolution of the Senate Committee on Interior and Insular Affairs urging that a review include consideration "whether the public interest and equity are reflected in the criteria used in the setting of said fee schedule." I ask unanimous consent that the full text of the resolution be printed in the RECORD, at this point.

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

RESOLUTION OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. SENATE

Whereas, the Department of the Interior did on January 14, 1969 under the authority of the Taylor Grazing Act (Act of June 28, 1934; 43 U.S.C. 315 et seq.) promulgate a schedule raising grazing fees substantially for the grazing year beginning March 1, 1969 and providing for further accelerated, progressive increases in such fees for each of the next 10 years (F. R. Doc. 69–527);

Whereas, the Committee on Interior and Insular Affairs, by its Subcommittee on Public Lands, did on February 27, and 28, 1969 hold open public hearings on the announced schedule of increases, and at these hearings representatives of grabiers and persons directly affected by the fee increases, as well as spokesmen for the administrative branch of the Federal Government, and other interested citizens, did make oral and written presentations to the Committee;

Whereas, testimony presented to the Committee raised questions as to whether the January 14, 1969 fee schedules do conform with the criteria established by Congress in the Taylor Grazing Act and in Title V of Public Law 137, 82nd Congress (65 Stat. 268,290);

Whereas, there are pending before the Interior Committee of the Senate two bills, S. 716 by Senators McGee and Moss, and S. 1063 by Senator Montoya, both of which would have direct effect upon the January 14, 1969 grazing fee schedule;

Now therefore, be it resolved That the Committee on Interior and Insular Affairs of the Senate of the United States requests and calls upon the Secretary of the Interior and the Secretary of Agriculture with other officials of the Executive Branch of the government, to undertake and complete not later than December 1, 1969 a comprehensive review of the grazing fee schedules imposed by the order of January 14, 1969. Said review shall include consideration of whether the public interest and equity, as well as the purpose and intent of the Congress as expressed in the Acts cited above, are reflected in the criteria and methods which were used in the setting of said fee schedule.

Mr. METCALF. The Secretary of the Interior has an obligation to state why it isn't sound public policy to continue the schedule of proposed increases in grazing fees; he has an obligation to cite negative impact, if any, and to whom; he has an obligation to describe why the U.S. Government should forego increased revenue, a substantial part of which would be available to conserve the watershed and grass on the public range.

And finally, Secretary Hickel has an obligation to explain why the public should respond in 30 days when it has taken him at least 15 days to reveal the substance of a review undertaken months ago.

If we are charitable, always remembering that the shoes of his predecessor are very large indeed, we might say that the Secretary of the Interior has been inept. But I remain hopeful that Mr. Hickel will remember the promise he made to the Senate Interior and Insular Affairs Committee in his confirmation hearings when he said:

I will also need the help of you and other Members of Congress for "advice and consent" in the future so that we can attempt to solve the problems in a spirit of constructive cooperation.

AIR FORCE INVESTIGATION OF ALLEGED KICKBACK IRREGULARITIES IN THAILAND

Mr. STENNIS. Mr. President, late yesterday, I was advised by the Air Force of their investigation concerning certain alleged irregularities including kickbacks in Thailand in connection with the operation of the officer and noncommissioned officer club activities. Both Secretary Seamans and General Ryan, the Chief of Staff, indicated their desire to keep the committee fully informed and to cooperate in any way the committee might desire.

Today, I have appointed a special subcommittee consisting of the Senator from Hawaii (Mr. INOUYE) as chairman, and the Senator from Virginia (Mr. BYRD), and the Senator from California (Mr. MURPHY) as additional members. The subcommittee will undertake a review in depth of what has occurred on this entire matter up until now and will maintain close surveillance over it. The subcommittee, of course, will make such recommendations to the full committee as it deems necessary.

I have received this date a letter from the Air Force on this matter with certain attachments consisting of a memorandum from Secretary Seamans to the Secretary of Defense together with a memorandum for correspondents. All of these items are being released to the press this date.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter to me from the Air Force together with the attachments.

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

DEPARTMENT OF THE AIR FORCE,
Washington, December 10, 1969.

HON. JOHN STENNIS,
Chairman, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: Knowing of your interest in the management of nonappropriated funds within the military services, inclosed is a copy of a memorandum sent by Secretary Seamans to Secretary Laird, this date, concerning an investigation being conducted into allegations of kickbacks and other possible irregularities in non-appropriated funds at Air Force clubs in Thailand

We shall continue to keep you informed in this matter.

Sincerely,

JOHN R. MURPHY,
Major General, USAF,
Director, Legislative Liaison.

DECEMBER 10, 1969.

MEMORANDUM FOR THE SECRETARY OF DEFENSE

I share with you the deep concern you expressed in your memorandum of August 12, 1969, concerning the possibility of alleged irregularities in the handling of non-appropriated funds involved in the operation of officer and non-commissioned officer clubs. As you know, the Air Force has for some time been conducting an inquiry into these activities.

Primary responsibility for this review was placed in the hands of the Air Force Office of Special Investigations, which is charged with maintaining world-wide investigative surveillance of Air Force activities, for the purpose of keeping the Chief of Staff and me informed of any irregularities or wrongdoings.

About a year and a half ago General J. P. McConnell, then Chief of Staff, personally instructed Brigadier General Joseph J. Cappucci, the Director of the OSI, to pay particular attention to the operation of officer and NCO clubs and other non-appropriated fund activities. To supplement information collected through its normal investigative processes, the OSI since then has been conducting unannounced surveys and spot checks into all aspects of Air Force club activities. This surveillance will continue.

As a result of our initiative, we have developed sufficient information to warrant the undertaking early last month of a detailed investigation into allegations of kickbacks and other possible irregularities in non-appropriated fund Air Force clubs in Thailand.

General John D. Ryan, the Chief of Staff, and I directed General Cappucci to accord a high priority to a full-scale investigation into this matter and to keep us informed of its progress.

Although the investigation has not yet been completed, it is quite apparent to me that we have a problem. I intend to resolve this problem fully and promptly. If warranted, appropriate disciplinary action will be taken against the individuals involved.

I have advised appropriate Congressional Committees of the status of the case, of the actions which the Air Force has taken, and of our plans to pursue this matter vigorously. In accordance with your policy, we are making pertinent information available to these committees. You may be certain that there will be no "cover up" of any irregularities which are uncovered as a result of the Air Force investigation.

I shall continue to keep you fully informed in this matter.

ROBERT C. SEAMANS, Jr.

DECEMBER 10, 1969.

MEMORANDUM FOR CORRESPONDENTS

Secretary of the Air Force Robert C. Seamans, Jr., reported to Secretary of Defense Melvin R. Laird today that the Air Force has, as a result of investigative action over an extended period of time, uncovered alleged irregularities, including kick-backs, in the operation of certain non-appropriated funds in Officer and NCO Club activities in Thailand.

Secretary Seamans said: "Although the investigation has not yet been completed, it is quite apparent to me that we have a problem. I intend to resolve this problem fully and promptly."

(Attached is the text of the memorandum from Secretary Seamans to Secretary Laird.)

LET US EASE THE BOXCAR SHORTAGE

Mr. HRUSKA. Mr. President, I join the senior Senator from Washington (Mr. MAGNUSON) and other of my colleagues in introducing and sponsoring a bill to relieve the Interstate Commerce Commission of its discretionary authority in setting the basic rates for boxcar use.

Since 1954, the railroads and the Interstate Commerce Commission have been litigating in court the issue of how the railroads should pay for the use of boxcars. Now, 15 years later, the problem remains no closer to a workable solution. It is for this reason that Congress must act.

Mr. President, this is not the first time the Congress has had to intervene in this matter. In 1966, the Congress enacted an amendment to the Interstate Commerce Act to authorize the Interstate Commerce Commission to set incentive per diem rates and in doing so to consider the factors affecting the adequacy of the national boxcar supply.

The ICC then issued an order in 1968 prescribing reduced daily rental charges for railroad cars, and adding a mileage charge, but concededly gave no consideration whatever to the effect its order would have on car supply. Thereafter 21 State regulatory commissions brought an action to set that order aside on the ground that it would make the car shortage worse and that, by failing to consider car supply factors, the Commission's action violated the congressional mandate. Many railroads shared that position, although some agreed with the ICC.

In any event, a three-judge district court sustained the Commission's order but split three ways on whether the congressional mandate had been obeyed. Then recently the U.S. Supreme Court affirmed by per curiam opinion and without argument, the judgment below.

Mr. President, there is no doubt that if that judgment becomes final the Commission will seek to implement its order establishing its system of rates based on both time and mileage. There is no doubt that this rate system will pose an even greater obstacle to the movement of boxcars back to the West that now exists.

It is very common for an eastern railroad or shipper to get a western boxcar and then to hold it overtime rather than to return it to the owning railroad. The eastern carrier uses it to haul its local freight, and the eastern shipper uses it for storage. This is possible because the existing per diem charges are sufficiently low that it is cheaper for the offender to pay the extra daily charge than to build boxcars or storage of its own. This deplorable system will be even more common if a lower per diem charge is placed in effect by the Commission along with a mileage charge; the lower per diem will encourage eastern railroads to keep the boxcars longer, and the mileage charge will discourage them from returning the cars empty and having to pay that charge without any offsetting income.

Since the Interstate Commerce Commission is intent upon ordering this time plus mileage use charge into effect, the Congress is the last resort to prevent this travesty. Western railroads and shippers have too long been discriminated against in their ability to move the grain and other produts of the West. Presently western and midwestern railroads are able to supply an average of only about 70 percent of their own cars for the shippers they serve, because the remaining equipment is being used in the East. A time plus mileage formula, as proposed by the Commission, would only compound this problem.

I am told that not only would this formula increase the boxcar shortage in the West, but would also be a great administrative burden on the railroads to administer.

The bill being introduced today is based on a formula developed by an association of American railroads task force. The ICC would be required to adopt this formula in developing an effective time per diem system and the formula would act as an incentive to alleviate th car shortage problem.

Mr. President, in my home State of Nebraska, there is in excess of 40 million bushels of grain on the ground awaiting shipment. During many of the past weeks, the number of boxcars available has been only one-third to one-half of the number available in 1968. Although Nebraska has suffered annually from such boxcar shortages, this year's crisis is the worst in Nebraska history. It could result in the loss of millions of dollars to Nebraska shippers and producers.

We have waited for many years for the Interstate Commerce Commission to end this annual boxcar shortage. We have waited long enough. It is time for us now to act.

JOHN H. CLINE RETIRES AT WASHINGTON STAR

Mr. GRIFFIN. Mr. President, one of the country's leading editorial writers, John H. Cline, retired yesterday after more than 41 years as a member of the Washington Star's editorial department.

For 20 of those years, Mr. Cline was an associate editor in charge of the Star's editorial page. I am only one of many Members of Congress who have found Mr. Cline to be eminently fair, informative, and always persuasive in his editorial comment.

I join his many friends and his associates at the Star in wishing him many happy retirement years.

Mr. President, I ask unanimous consent that an editorial from today's edition of the Star be printed at this point in the RECORD.

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

AN EDITOR RETIRES

John H. Cline left us yesterday. After a brief vacation his retirement will become effective the last day of this month, which happens to be the 20th anniversary of his appointment as Associate Editor in charge of this editorial page.

He will have completed more than 41 years as a member of The Star's editorial department, which began when he came to work as a reporter in 1928. Like his late father, a managing editor of The Star, he was an excellent newspaperman. In the performance of his daily task over these past two decades, he has been a principal keeper of this newspaper's conscience. That is no small task.

We wish him happiness in the new leisure he has won. From time to time, as the spirit moves, he will be giving us a helping hand with an important and difficult editorial. Meanwhile, we hope he drops by whenever he can and enjoys an unprecedented opportunity to watch his friends at work while he sits idly by.

THE TEXARKANA PROJECT

Mr. MURPHY. Mr. President, in the December issue of the magazine "Nation's Schools," Dr. Leon M. Lessinger, Associate Commissioner of Elementary and Secondary Education, discusses the Texarkana project, funded under the dropout prevention program which, as Senators know, was authored by me in 1967.

As Dr. Lessinger notes in the article, the Texarkana project has great implication for education in the decade of the 1970's. Under the Texarkana project a private corporation has subcontracted with the Texarkana schools on a performance contract basis. This means that the company has agreed to raise disadvantaged students' reading and math scores up to grade level at a fixed cost or else accept a penalty. In other words, a contractor must perform in

terms of student learning in order to get paid.

I ask unanimous consent that this excellent article by one of the Nation's most exciting educators, Dr. Lessinger, be printed in the RECORD at the end of my remarks. I hope that Senators will read it carefully. I am sure that if they do, they will agree with me that the Dropout program, which includes other projects of great potential, should be funded at the $24 million level.

On December 9, I had printed in the RECORD, at p. 37829, my testimony before the Appropriations Committee on this program. I hope that Senators will have an opportunity to study my recommendation before the Labor-HEW appropriations bill reaches the Senate floor and that the Appropriations Committee and the Senate will follow my recommendations. It is a good investment, having the potential of returning rich education dividends to the Nation.

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

AFTER TEXARKANA, WHAT?

(By Leon M. Lessinger)

What's going on in Texarkana schools today may be going on all across the country in the next decade. Tied up with the idea of schools being accountable for their educational output, the Texarkana plan revolves around a performance contract in which a special teaching group will be reimbursed according to how well the students in its program do on a set of standardized tests.

Texarkana's implications are vast. If funds for education depend on educational output, not input, then schools will be concerned with learning, not teaching, and the development of a science of performance measurement may create a new type of educational planning in this country.

The article that follows discusses the problems and promises of accountability and performance contracts and reveals some of the thinking that is going on about them at the most influential educational and political levels.

As major federal financial support for schools broadens, people increasingly ask, "What are we getting for our money?" Traditional answers in terms of money spent, number of teachers on the staff, and buildings in use are no longer sufficient. The public wants to know if young people can read, can get and hold a job, and can successfully compete at a higher level of education. This call for accountability of results is a demand for changes in education of such size and influence that the results can only be characterized as revolutionary.

If schools are to be held accountable for results, a new approach to the basic mission of the schools is necessary. First, the focus must shift from teaching to learning. Second, a technology of instruction based on specific learning objectives will start to build. Finally, a rational relationship may be established between costs and benefits.

While the idea of accountability is seemingly simple, its implementation is not.

Performance contracts: The August 13, 1969, Congressional Record includes remarks by Roman C. Pucinski (D., Ill.), the chairman of the House Subcommittee on General Education, about a description of the experiment then about to be launched in Texarkana, Ark., appearing in an article by Jonathan Spivak of the Wall Street Journal. Under the heading "The Coming Revolution in American Education," Pucinski stated, "The unique aspect of the Texarkana experiment is 'guaranteed performance.'" The contractor must promise to bring backward Texarkana students up to normal grades for their age levels at a given cost and in a given time—or else pay a money penalty.[1]

This notion of someone guaranteeing educational performance embodies generally the concept of accountability and illustrates specifically an approach to achieving accountability through performance contracts with private enterprise. Such a concept may have far-reaching implications toward efficiency of education in years to come. A description of the project and its ramifications can demonstrate the use of performance contracts.

THE TEXARKANA MODEL

A local education agency, the Texarkana, Ark., school district, applied to the U.S. Office of Education for funds to conduct a dropout prevention program under a proper Title of the Elementary and Secondary Education Act. It proposed to translate its compensatory training objectives, e.g. reading, arithmetic and study skills for disadvantaged students in six junior and senior high schools, into performance criteria for competitive bid by private contractors.

The school district then employed an actor's agent," in the form of outside technical assistance from a nonprofit firm, to help them translate their objectives into an evidence framework and to develop a Request for Performance (RFP), the specification document for bidders. The firm also supervised the bidding, developed the performance contract with the successful bidder, and served as liaison to school staff and community.

Terms of agreement of the Texarkana program are:

1. Students who are two or more grade levels below standard in basic skills, and whose family income is $2,000 per year or less, are to receive a training program for up to three hours per day in a portion of the school plant. The students remain in the total school program to receive other school benefits.

2. The contractor agrees to use school personnel so that the school system can carry on successful practice after the project is terminated.

3. The contractor agrees to be paid only on the basis of a stipulated amount of money for each student who successful completes the training program.

4. A penalty is assessed for those students who do not achieve specified performance levels.

5. Six months after the termination of the project, school officials have a right to reassess student performance. If it is less than the specified level achieved, a penalty may be assessed.

6. The school system, not the contractor, selects the student.

7. The training program of the successful bidder must be cost effective, and not labor intensive.

The assumption behind the program is that a private contractor, in concert with regular school personnel in the overall school setting, will have greater freedom to innovate and may be more successful in motivating students than the regular school system.

PERFORMANCE OBJECTIVES

Performance contracts are not new to education. Elements of the notion can be seen in a variety of experiments during the 1920s and even earlier. But the concept of holding an educational agency *accountable for results* is new. This hardnosed approach has grown out of careful study of current reports on the various programs administered through the U.S. Office of Education.

These reports—evaluations of the various titles of the Elementary and Secondary Education Act—raise questions as to whether such funds are flowing into the most appropriate channels or whether a good part is drained off in poorly conceived, improperly managed programs. Much loss might be avoided if those seeking funds submitted proposals based upon specific performance objectives, including a clear statement of the conditions, evidence and standards used to show the degree to which objectives had been met. Such proposals could be solicited in response to a Request for Performance (RFP). The agreement arrived at through bid or through other arrangements could then take the form of a performance contract.

When a student is able to demonstrate in concrete terms what he has or has not learned, educators and the funding agencies will be in a better position to judge where and why a program succeeds or fails and to make the changes needed for success.

Thus a proposal for funds to back a reading program might stipulate that 90 per cent of the participating students would be able to achieve a partular grade level increase within a specified time. In requesting funds for teacher training, the agency might be able to prescribe the teaching skills to be imparted and the criteria for measuring the "proficiency level" of participants in the program. In both cases, the funded agency would then be prepared to explain any failure—to achieve the performance levels on which such a contract is based—preferably in terms of suggested changes in the program that might be expected to guarantee results.

Many programs have been funded, and are now underway, which at no point describe what students are expected to gain from their educational experiences. Instead of vague promises to provide "an opportunity to learn, to communicate effectively," instructional program objectives should be stated in terms as specific as these:

Given three days and the resources of the library, the student completing this program will be able to write a 300 to 500 word set of specifications for constructing a model airplane that another student could follow and build.

There are, of course, larger objectives in education that are difficult to define and impossible to measure as the consequence of any given program. The training components of education, illustrated in the basic skills of reading, arithmetic and the like, are most amenable to performance contracts, and it would be tragic to go beyond the training component at this time. Only those aspects of education that can be operationally defined and for which acceptable methods of assessment can be used are eligible for inclusion in a performance contract.

A performance contract approach to federal resource allocations promises greater economy in the use of federal funds and in the allocation of general education resources as well. Educational objectives pinned to predictable, measurable student performance, which are necessary parts of these contracts, would offer a much needed basis for measuring program cost against program effectiveness.

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[1] Readers of Nation's Schools news columns have been kept up to date on the Texarkana performance contract right along. Announcement of the bidding by some 90 private companies was made in our August issue (p. 66). Last month (p. 96), a story was published on the winner—Dorsett Educational Systems, a medium-sized developer of teaching machines based in Norman, Oklahoma. In bagging the contract, Dorsett beat out such corporate giants as RCA, McGraw-Hill, Westinghouse, IBM and Singer.

SAFETY

Mr. HRUSKA. Mr. President, with the Christmas and New Year's long weekend traveling ahead of us, and with the usual dangers of driving in the winter season, I believe it to be most appropriate if the message of safety in driving, safety within the home, and safety at work and play, be fully dramatized, publicized, and recognized at this time of the year.

A longtime friend, Governor Howard Pyle, who now serves as the President of the National Safety Council, has sent me a letter and the Report to the Nation 1969, which begins as follows:

Public and official preoccupation with other crises continues to obscure the bitter tragedy and awful cost of accidents on our highways, in our homes, in public places and at work . . .

Particularly depressing is the fact that so many of government's promises of assistance have fallen so far short of fulfillment.

It is strange paradox that we can be so properly concerned about Vietnam, and violence in the streets, and so unmoved when accidents in the decade of the sixties killed more than a million men, women and children—injured 103 million—and accounted for $180 billion in economic waste.

The seventies will be even more disastrous if we don't decide to do something about it and act accordingly.

Your help will be appreciated.

Sincerely,

HOWARD PYLE.

Mr. President, the U.S. Senate Antitrust and Monopoly Subcommittee, on which I serve as its ranking minority member, has been conducting public hearings on two broad fronts, automobile insurance and automobile repairs, and everyone agrees that the reduction of accidents are absolutely mandatory to save lives, to reduce injuries, to lower economic loss, and equally, to reduce the cost of insurance to the consumer. The facts show that in 1960 there were 38,137 auto deaths and 1970 is predicted to have 60,000 auto deaths if the 6 percent increase of the past few years continues. The facts show that 2 million serious injuries occur each year, and automobiles are damaged at a cost equal to deaths and injuries. In view of these facts one can understand the concern of State governments, insurance commissioners, the insurance industry, and the insurance policyholders as to the cost of insurance for automobiles, and what must be done to resolve this issue. Hence, the reduction of accidents is absolutely mandatory. It takes the combined efforts of the drivers of autos, of the safety of the autos, and the safety features of the highways and streets of America—plus good government administration and enforcement of traffic laws.

Mr. President, I ask unanimous consent to have the National Safety Council material of the above-mentioned report placed in the RECORD.

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

Motor vehicle accident toll in the 1960's

(Cost, $90 billion)

Dead	475,000
Permanently disabled	1,500,000
Temporarily disabled	16,000,000
Partially disabled	15,000,000
Vehicles in accidents	250,000,000

SOURCE.—National Safety Council estimate based on reports from state motor vehicle departments: National Health Survey.

The battle to reduce the highway death toll has many fronts. Two of these are worth special attention here:

1. *The Defensive Driving Course* has now trained more than a million and a half drivers. It is approaching its goal of a million graduates a year. DDC is now putting increased stress on building public support for sound traffic safety policies and on developing attitudes of courtesy and cooperation among drivers. This supplements the established emphasis on teaching drivers professional defensive driving techniques.

2. *The Highway Safety Program Analysis,* now functioning in 24 states, assists states, countries and cities to assess their traffic safety programs in relation to national standards promulgated under the Highway Safety Acts of 1966.

In other program areas—public, farm, home, youth, women, labor, school, motor transportation and religion—there have been noteworthy developments. Details will be found in the following pages.

The Council continues to tell the safety story to the American public through many channels. The Public Information Department works with the various communication media to deliver the safety message to mass audiences. One part of this program—the Advertising Council's traffic safety campaign—accounts for more than four billion listener and viewer impressions on radio and TV networks annually.

Publications of the Council—magazines, posters, newsletters and technical and specialized publications—reached a record circulation last year. They serve the entire spectrum of the Council's program responsibility with material from the broadly popular to the narrowly technical.

Organizationally and financially the National Safety Council continues to show growing strength. As the demand for more and better safety services is increased by the mounting complexity of the hazards our society faces, the Council is capitalizing on electronic data processing to increase staff productivity.

To sum up . . . The National Safety Council is determined to meet its responsibilities to its members and the nation. It is creatively developing new fields of service and new techniques. At the same time, it is faithfully maintaining the many established services which have played so large a part in the great progress of accident prevention over the last half century.

Yet this is not enough!

The organized safety movement is confronted by the problems of a troubled society. The tremendous explosions in productive capacity, scientific knowledge, communications, transportation, education and population have seriously altered our way of going.

Progress has brought a broadly based affluence—but it has also brought new and troublesome issues. It has aggravated a great number of old ones.

The safety movement is already addressing itself to a wide variety of challenges which, ten years ago, would have been considered outside its range of interest and competence.

The data, especially the data from the occupational and traffic fields, are clear proof that the safety movement and the Council cannot afford a single moment of complacency or relaxation of effort.

The easy victories are behind us! It will take the best brains and the most devoted service to achieve the future progress that society has a right to demand of us. The challenge demands that all of us "Speak Up for Safety."

SAFETY ON THE ROAD

More than a trillion miles are now driven each year by America's motor vehicles. The price of this mass movement is 1,000 deaths and 36,000 injuries a week, and more than $11 million in economic loss each year. The problem continues to grow, as 2,000,000 new drivers and 2,000,000 new cars are fed into the traffic stream each year.

State officials have praised the Council's Highway Safety Program Analysis as an important tool in coping with the growing complexities of traffic accident prevention. Detailed analyses are prepared for participating localities, telling them how they conform or fail to conform to new traffic safety standards. At the same time, guidelines are submitted to improve traffic control machinery in the contracting communities. The Council thus acts as a catalyst and a rallying point around which officials at all levels of government may work.

Although the Highway Safety Program Analysis is little more than three years old, it is already functioning in 24 states. Last year 10 states contracted to make use of the program and it was thus put to work in seven counties and 295 cities within these states. This does not include another 21 cities and four counties that were making use of this program analysis on their own without the help of state or federal funds. In one state, the findings and recommendations of the Highway Safety Program Analysis led to the formation of 19 local traffic safety commissions.

Shortage of trained men and women continues to be a major problem. If the states are to implement the safety standards of 1966, they must have available to them more and more men and women who are trained in the techniques of traffic safety. To encourage qualified people to enter this field, the NSC Traffic Education and Training Committee cooperated with the National Highway Safety Bureau in developing a career guidance program that seeks to attract more young people into this all-important activity. Printed materials have been distributed to high school guidance counselors and college and university advisers. To help states train people now working in traffic safety departments, the committee has published a guide entitled *Highway Safety Manpower and Training.*

A revised Manual on Classification of Motor Vehicle Traffic Accidents is intended to refine systems of record keeping. The NSC staff has also prepared a new traffic accident summary form, which will include cross-compilation of accident data. This information will be classified according to instructions established in the new manual.

The fight against the hazards of winter driving continues. The annual tests conducted at Stevens Point, Wis., yield a wealth of facts that are compiled into reports for engineers and researchers. The public then reads and hears of these findings through a public education program.

Action to increase safety at railroad grade crossings has been intensified. An educational program includes new television, radio and newspaper materials.

Members of the Department staff continued to work with the National Joint Committee on Uniform Traffic Control Devices and the National Committee on Uniform Traffic Laws and Ordinances. The Uniform Vehicle Code and Model Traffic Ordinance has been revised and distributed, while revision of the Manual on Uniform Traffic Control Devices is scheduled for completion in 1970.

DRIVER IMPROVEMENT

More than a million and a half persons have graduated from the Council's Defensive Driving Course. May of 1969 was the largest training month in the history of the program with more than 70,000 graduates.

The U.S. Navy has adopted the DDC program for all its military personnel after four years experience with the program in some installations. About 400,000 members of the Armed Forces will soon be enrolled in DDC courses annually.

Aims of DDC have been redefined and expanded on the basis of the first four years' experience. The stated objective for the years ahead is to:

a. Train drivers in professional traffic accident avoidance techniques.

b. Build informed and constructive citizen support for official federal, state and municipal traffic safety programs.

c. Promote among all motorists an attitude of mutual understanding, courtesy and cooperation so that driving a motor vehicle on our streets and highways becomes a more civilized, pleasant, safe and successful activity for all concerned.

These expanded objectives have been implicit in the program up to this point, but will be made more explicit through a recasting of emphasis in the Instructor's Manual and the Student Workbook. They are also more consistent with America's growing recognition that the quality of American life cannot be the sole concern of government and business but is also a responsibility of citizens individually and through volunteer group action.

MOTOR TRANSPORTATION

Can television help men and women to drive safely? The Motor Transportation Department thinks it can, just as it has been used in many fields as an effective teaching tool. So enthusiasm for the Council's video experimental program remains high. This specially designed electronic system records on film a driver's decisions and reactions as he guides his vehicle to its destination.

Early experience with the video system reveals that it can show a driver, later studying himself on a television screen, what he has done right and what he must correct. As the Council accumulates data from this experimental program, guest drivers will be studied to see if the instant playback possible with the television recorder system can help to improve their driving habits.

Record-keeping has also been expanded and refined this past year. Fleet accident records have been added to categories dealing with accident statistics submitted by official agencies. Review of fleet accidents enables researchers to answer questions that until now have been unanswerable. Using the NSC computer, the Conference expects to identify the significant causes of collisions.

We have advanced during the past year on a number of fronts:

More "key man" supervisors are enrolled in the popular Fleet Home Study Course.

School bus impact tests, conducted by the Institute of Transportation and Traffic Engineering at UCLA, continue to occupy our attention, as the subject did when we first recommended such tests in 1965.

Staff members are revising the Fleet Safety Manual, widely used throughout the U.S. and Canada, which is scheduled for a second edition printing in 1970.

SCHOOL AND COLLEGE

Accidents claim the lives of more children between 5 and 14 years of age than any two diseases combined. For young people between 15 and 24, accidents account for more deaths than all other causes combined. In the next academic year, nearly 850,000 school children will be injured in or near their schools.

Because every school in the country needs a program of safety education, the School and College Conference has prepared a model safety policy for adoption by school administrators. A Conference objective is a safety education supervisor for every school system.

To encourage the nation's educators to be ever more conscious of safety in the schools, the Conference has urged that the subject be included in the agenda of the 1970 White House Conference on Children and Youth.

The Council believes every school throughout the country should use the National School Safety Honor Roll as a means of maintaining precise safety records that will enable the school to evaluate its progress. The information thus acquired and made available to NSC will provide invaluable assistance in future planning.

Driver education engages the continuing attention of the Conference. In the past year a workshop has been conducted for teachers covering emergency and winter driving hazards. More of these teacher training sessions will be held in the future as emphasis is placed on training students to cope with emergencies and to acquire skills. The Conference also continues to conduct research in the interest of a new and more effective driver-education curriculum.

Safety progress is being made in our academic institutions and is increasingly evident in campus activity. Last year 16 colleges hosted campus safety conferences conducted by the Campus Safety Association. At present, 31 colleges maintain safety centers. Using available federal funds, more schools are expected to establish these centers in the immediate future. A recent NSC survey of 969 institutions showed 303 offering safety courses and 196 with campus safety committees.

LABOR

The Labor Department and Conference work with many agencies, associations, organizations, and governments—federal and local—in the promotion of the modern techniques necessary to reduce accidents in the workplace, on the road, at home and at play. No longer does the Labor Department devote its attention exclusively to safety on-the-job. Growing with today's sophisticated approach to safety, international unions have established safety and health departments with professional staffs of engineers, hygienists and consultants.

More than 40 international unions participate in NSC's work. They are thus able to advance safety concepts to more than nine million working men and women. Their magazines carry invaluable safety and health information. It is estimated that about 20 million persons see these messages each month.

The Labor Department and Conference cooperate fully in the development of NSC testimony pertaining to proposed safety and health legislation at federal and state levels. They continue to urge the Bureau of Labor Statistics to create national uniformity of occupational injury statistics; they have contributed hundreds of man-hours in helping to develop recommendations for occupational safety and health programs in individual states; they continue to urge adoption of national traffic safety standards among the states.

RELIGIOUS ACTIVITIES

Because safety is concerned with the conservation of human life, it is inevitably a religious concern. For this reason, the Conference for Religious Leaders continues to receive growing support from all religious denominations.

In cooperation with business, industry and community groups, the Conference has distributed, on request, more than 10,000 NSC Holiday Safety Campaign kits. Other new materials developd this year were a brochure that describes the work of the Conference and a kit of basic program materials for use by religious leaders. In September, the Conference for Religious Leaders offered a national seminar to discuss "The Church's Role in Accident Prevention."

Many national and local church leaders have increased their efforts this past year to develop support for the national highway standards, especially those dealing with alcohol and highway safety. Several of the denominations have published articles on accident prevention, prepared safety resolutions, developed guidelines for congregational studies of the problem and have offered programs and courses that would help their members to lead safer and healthier lives. More and more, churches and synagogues are offering the Defensive Driving Course to their congregations.

The Conference for Religious Leaders, for the ninth consecutive year, discussed the moral implications of traffic laws and traffic courts at the five regional conferences sponsored by the American Bar Association.

WOMEN

To duplicate the work accomplished by volunteers, according to a study by the Department of Labor, organizations of all kinds would be required to hire 900,000 persons. It has been revealed that half of all volunteers are between 25 and 44 years of age—and most are women. Women, in short, can be a powerful force for good in the work they do.

In the past year, as in earlier years, women working through local and national organizations have done much to make their communities safer and better places in which to live. They have organized a campaign against accidental poisoning that has reached into 38 states. In Toledo they worked to improve the building code; in Oklahoma, they sponsored a Teen Sitter Workshop that attracted more than 2,000 young people; in Arizona, they helped to pass legislation that requires the use of safety glasses by students and teachers engaged in hazarous school work.

In Washington, women's safety activities included an elementary school pedestrian program, "Safe Route to School," and an auto anti-theft program; a boat and water safety program stressing safety as a year-round practice was established in one of the resort communities. In Florida, they promoted the use of Defensive Driving Courses—148 of them with 3,000 students. The Defensive Driving program, which was championed by women and pre-tested by the Women's Division of the Toledo-Lucas Safety Council, is approaching a current rate of one million drivers trained a year.

Represented on the Women's Conference are 48 national women's organizations with a combined membership of about 18 million women. Providing these women with an increasing number of guidelines for their safety activities is one of the principal functions of the Women's Conference.

RESEARCH

The work of the National Safety Council's Research Department has increased in quantity and grown in depth.

Among the highlights of 1969: research on the aged driver completed and published early in the year; the first phase of NSC's three-year bicycle safety research project completed and the announcement of a grant of $10,000 to support further effort to compile and analyze bicycle accident data. A grant of $100,000 over a four-year period has been awarded to NSC for the study of the Defensive Driving Course as an adjunct to high school driver education programs.

PUBLICATIONS

Family Safety, the Council's mass circulation magazine, now enters 1,675,000 households, bringing home, traffic and recreational safety information to more than 5,000,000 readers—an all-time high. Another huge segment of the nation's work force receives regular reminders of the safe and right way of doing their jobs through the pages of the *Safe Worker* and *Safe Driver* magazines. Together their monthly circulation now tops 1,150,000—up 50,000 from 1968. During the past year NSC produced more than 10,000,000 posters to be displayed as graphic safety reminders in plants from coast to coast.

PUBLIC INFORMATION

The Public Information Department is the Council's "hot line" to mass and specialized media. News stories on safety, feature articles and public service broadcasts on radio and television inform the public of potential

hazards in the home, on the job, at play and on the road, and how to cope with them.

The goal of Public Information is not merely to reach millions of Americans with safety information, but to persuade them to believe in the safety messages they see, hear and read, and—more importantly—to encourage them to take positive action toward accident prevention.

The rising popularity of winter sports prompted a series of television spot announcements on snowmobile safety, as well as radio spots and press releases on all aspects of recreation.

A special grant financed production of TV public service spot announcements on highway safety and a series of spot announcements by television and radio personalities, and distribution was made to 5,000 radio stations. Live copy covering home, public, farm and traffic safety is mailed quarterly to all radio stations in the United States.

Information concerning safety, both on and off the job, is channeled to the labor, farm, industrial and general press, as well as to company house organs. Photo features, press releases and feature articles cover such familiar problems as material handling and such timely subjects as NSC testimony before Congressional Committees.

A Quarterly News Release Program, initiated this year, is designed to assist local councils in generating public information programs at the grass roots level.

The Advertising Council's traffic safety campaign, planned in cooperation with NSC Public Information, included radio and television public service spot announcements sent to 700 TV stations, 5,000 radio broadcasters and the Armed Forces Network. These broadcasts resulted in more than four billion viewer and listener impressions from network exposure alone.

The campaign—in both print and broadcast media—is estimated at 51.5 million dollars in value. This amount, combined with other public service time and space contributed to NSC, is valued at more than 100 million dollars of media exposure. This figure does not include inestimable amounts of editorial time and space.

Using all available channels of communication, the Public Information Department aggressively conveys activities of NSC management and safety information from all departments to mass and specialized publics in a creative and positive manner.

FIELD SERVICE

The Field Service Department represents the National Safety Council as one of 26 organizations participating in the "States" Program, initiated as a result of a series of meetings held over the last several years among field managers of national organizations. The goal is to build support for the 16 National Highway Safety Standards promulgated by the National Highway Safety Acts of 1966. With this program, the Field Service Department coordinated the production of materials with the NSC Public Information Department. These were distributed to state officials and public support organizations in the 47 states whose legislatures met during 1969.

OUR NATIONAL NONSYSTEM OF HEALTH CARE—A NEED FOR A NEW STRATEGY

Mr. PELL. Mr. President, in the coming weeks the Senate will be considering the appropriations for the Federal Government's major health programs. In the course of that debate we will be, once again, facing the perplexing question of the inadequacies of health care in a nation which is capable of placing men on the moon, but which is not yet capable of delivering adequate health services to its citizens.

I do not believe we will be able to find those answers that will assure us that increased health appropriations will resolve our Nation's crisis unless we consider the significance of those appropriations in the perspective of the changes that need to be made in the methods by which health care is provided to the citizens of this country.

To gain this wide perspective, I believe we must use a systems approach in our analysis of the Nation's health problems.

In order to do this I will first describe what I mean by the term "health care system" and how I would use a systems approach as the means of approaching a solution to our impending health crisis.

The systems approach is a dynamic concept used to describe interrelated organizations or machines which operate together for the purpose of accomplishing common goals. The goal of the health care system of the United States is usually understood by most people to be a long life free of disease and incapacitating or debilitating illness.

Systems theory assumes that there are alternative strategies which can be followed to reach the goals established for the system and that the effectiveness of the various strategies or methods can be analyzed by comparing the output of the system under each strategy. I will first describe what I believe the present health care strategy is, and then I will suggest what I believe is a better alternative strategy.

If the strategy implicit in the operation of our present day health care system were analyzed, it would be described as an unconscious hospital-oriented strategy based on the premise that health care is a marketable item, that is, the level of health care an individual may receive in great part depends on the amount of money he can spend. The premise is rooted in a laissez-faire concept of medical care which predicated the doctor as an individual economic unit who determines his level of income by the level of demand for his services.

I describe the present strategy as hospital-oriented because the hospital is considered the heart of our health care system. In the mind of the average man, the hospital is the only place where health care takes place. It is the only place where a doctor can provide health care and it is where private and government insurance plans are most likely to provide the largest reimbursement.

I describe the present strategy as unconscious because it is not the result of any conscious decision by any representative body to provide health care in such a manner. Since our present health care system is rooted in a laissez-faire concept of medical care, the collective decision-making necessary for the rational planning of our health care system has not been possible until recent years. Consequently, our present health care strategy is the result of the interrelationships of various ad hoc decisions made by many different groups in the fields of health, insurance, finance, and government. Our present strategy has resulted in a nonsystem of health care.

To implement this unconscious hospital-oriented strategy, the United States now spends more money than any other country in the world for health care, 6.5 percent of the gross national product in 1968. Of the $53 billion spent in 1968, private sources contributed 63 percent, the Federal Government spent 24 percent and the State and local governments expended 13 percent.

From the Federal level, there are three main fiscal inputs into our national health care system which are funneled through 23 separate Federal agencies. First, there is the development of health resources for which the Federal Government spent $2.8 billion in 1968, second, there is the provision of hospital and medical services for which the Federal Government spent $10.8 billion in 1968, and third, there is the prevention and control of health problems for which the Federal Government spent $565 million in 1968.

Having described the present health care strategy and the costs of implementing that strategy, I would now like to outline the results of that strategy and those expenditures, what is known in system terms as the outputs of our health care system.

There is no doubt that the level of health care in the United States, for those of us who can afford it, is the highest and best in the world. Our doctors are highly trained and are among the world's best.

Yet, our Nation, also the first in expenditures for health, ranks 14th among nations in terms of infant mortality and 16th among countries in terms of life expectancy. Between 1958 and 1966, the expectation of a healthy life at age 65 increased only by a scant four-tenths of a year to 13.5 years after the age of 65 in the United States.

In 1963, the last year for those figures, an estimated 6.2 million man-years were lost from the U.S. economy through illness. In 1968, in the health care system there was a shortage of 145,000 nurses, 52,000 physicians and 9,000 dentists in the United States.

Between 1958 and 1966 physicians' fees have risen 38 percent and hospital daily service charges have risen 100 percent. According to the Department of Health, Education, and Welfare, medical costs are now rising at more than double the increase in the cost of living. Physicians' fees are now increasing at 6 percent a year. Daily hospital costs which average $70 today are expected to be $100 a day within 3 years.

Besides the low ranking the United States receives according to international health indicators, the impact of the present hospital-oriented and market determinative health care system of the United States is even more shocking when nonquantitative reports such as the Kerner Commission report are examined and the relationship of our health crisis to the problems of the cities, of race, and inflation become more evident.

In its analysis of the root causes of civil disturbances, the Kerner Commission said:

The residents of the racial ghetto are significantly less healthy than most other Americans. They suffer from higher mortality rates, higher incidences of major diseases and lower availability and utilization of medical services.

In its study of the relationship of hunger and income, the Senate Select Committee on Nutrition and Human Needs, of which I am a member, said in its interim report that "clinical validated malnutrition exists in serious proportions in the United States and is a particularly acute problem among infants and preschool and school children from low-income families. Malnutrition is both a major cause and a common result of ill health." Witnesses before the committee also suggested that there is a correlation between slow learners in school and the incidence of ill health in schoolchildren.

The effect of the present high cost hospital care and income focused strategy of the health care system on its accessibility to the lower middle class and the poor has been strikingly outlined by statistics developed by the Government.

For example, during 1963 and 1964, while 54 percent of children under 17 years of age in families whose incomes was in excess of $10,000 had at least one general physical examination, only 16 percent of those children under 17 years of age with family incomes of less than $2,000, had such a routine checkup. More than 20 percent of the people in families with incomes under $3,000 have never visited a dentist as compared to 7.2 percent of those in families with incomes of $10,000 who have never visited a dentist.

While to this point I have painted a somewhat depressing picture of the health care system in the United States, this does not mean that I do not believe that improvements cannot be made. I believe progress can be made if the Congress is willing to replace our present nonsystem of health care with a national system of health care based on a new strategy.

I believe we must develop a new strategy of health care capable of providing a floor of basic health care for all our people regardless of income.

Each citizen of this bountiful country should have a right to a minimum standard of health care. Reasonable health care should not be a function of the vicissitudes of the marketplace. It should not be dependent on the socioeconomic condition of the consumer. We must work to abolish the great disparities in the standards of health care that are now evident in the United States.

I believe a new strategy should be considered which emphasizes the preventive aspects of health care rather than the curative aspects of health care. Our present health system provides excellent care for the patient only after he has reached the hospital bed. A hundred dollars a day in a hospital is too expensive a way of providing health care. A strategy should be developed based on diagnostic and neighborhood health centers which allow for the preventive treatment of illness before hospitalization is required. People should be encouraged to have periodic checkups and the medical profession should attempt to find the time needed to provide those checkups.

Unfortunately, the majority of existing private and public health insurance plans do not create an incentive in their plans for preventive care, nor is there adequate medical personnel available to give the level of preventive care needed today. Both Government and private health insurance plans usually pay the largest amount of reimbursement for hospital care rather than ambulatory care.

The experience of the Kaiser plan in California, which provides coverage for adequate preventive care is further evidence of the necessity of following a strategy based on ambulatory care rather than hospital care. The age adjusted utilization rates for Kaiser hospitals have been more than 30 percent below the average for California hospitals and the rise in expenditures for Kaiser hospitals has been considerably below the national average.

The experience of health care plans in two foreign countries also suggest changes which might be considered in our present health strategy. Under the old Chinese system of care, the doctor was not paid for his services unless the patient recovered. While I would not favor implementing such a drastic system, I think a new health care strategy should include some consideration for the development of incentives for doctors to provide quicker, more effective, and less costly health services.

Perhaps the health insurance companies could give doctors a bonus payment for patients who spend less bedridden time than is normal for their particular illness or perhaps the Government could pay doctors to take midcareer courses designed to update them with new discoveries and more effective ways of delivering health care.

The experience of the Australian plan suggests another consideration. In Australia, the costs of catastrophic illnesses are covered by a national plan. In the development of a new health strategy, I would suggest that consideration should be given, not only to the provisions of preventive care, but also to the coverage of the astronomical costs that are incurred as the result of a catastrophic illness or accident.

The final characteristic of the new strategy I suggest would be strong adherence to comprehensive health planning for localities, regions, and the Nation. The health care system can no longer be managed as a cottage industry. Allocation of our limited health resources must be made in a rational manner according to where the need exists not where the dollar has the greatest pull. We must have a conscious and a coordinated health care strategy.

The implementation of the national health system's strategy, which I propose, will place a heavy burden on the Congress for new legislation. It will require legislation for the following purposes:

First, to provide a health care floor for all Americans, I see no other alternative for the future than a universal health insurance plan for the United States. Such a universal health plan would provide financial coverage for a minimum floor of preventive care such as multiphasic screening. At a maximum it might also provide some form of protection against the high costs of catastrophic illnesses. While there are a number of financing arrangements that could be considered, I would hope that the national insurance plan finally proposed would be paid for by some sort of taxing structure with the Federal Government picking up the health insurance premiums for the very poor. I am not sure whether such a plan would be best administered by the Government like the medicare and medicaid programs or by nonprofit bodies such as Blue Cross, but I believe the Congress should begin in 1970 an investigation into possible alternative national health insurance measures.

For, I do know that, if expensive operations such as organ transplants are to become more widely available, if high-cost medical technology like kidney dialysis machines are going to become available to the people who need them, if a basic level of health care is to become part of the normal expectation of all our citizens—as is the expectation of a basic level of education, and police and fire protection, some form of a national health care system such as I suggest must be developed.

Second, I think greater authority should be given to State, regional, and national planning mechanisms, such as those that were established in Rhode Island and other States under the partnership for health legislation. Where comprehensive health plans have been developed, I believe Federal health funds should be spent only in conformance with those plans. I look to changes in the Federal health facilities construction programs which would not allow Federal expenditures to be made in violation of State comprehensive health plans. I look to changes in the hospital and long-term care facilities reimbursement formulas under the medicare and the medicaid programs which would prevent reimbursements to health facilities not in conformance with State plans. I hope that these are changes that both the Finance Committee and the Labor and Public Welfare Committee will consider.

Third, I believe a greater effort must be made to increase the supply of health manpower. This requires us to fully fund the health manpower programs.

Money to increase our country's supply of health manpower is in no way an inflationary pressure. As a matter of fact, by reducing the gap between the supply and demand for health manpower, expenditures for health manpower programs provide a deflationary pressure in the long run.

The development of health manpower requires many years of education. Our failure to act this year to reduce the health manpower shortage will make it even more difficult to fill that gap in future years. There are few other investments for which the Federal dollar can receive a greater return than health manpower programs. If we are to have a universal health coverage in the fu-

ture, we must make the investments today to provide the manpower needed to operate such a system.

Fourth, a national health system means that steps will have to be taken to coordinate the Federal Government's 23 health programs under one Federal official and establish a Council of Health Advisers, similar to the Council of Economic Advisers, as Senator RIBICOFF has ably suggested.

I am hopeful that the actions we take on the health appropriations bill and on the many extensions of health authorizations which will be required in the coming year will represent the initial consideration of the new health strategy I propose.

While I realize that the changes I suggest will demand many hours of work by the Congress, I believe that the seriousness of our national health crisis justifies such actions.

HEALTH BUDGET CRISIS

Mr. KENNEDY. Mr. President, during last week's subcommittee hearings on appropriations for the Department of Health, Education, and Welfare, Dr. George James, dean and president of the Mount Sinai Medical School & Center of New York, testified on the effect of administration budget requests and House action upon programs in health manpower. He presented an excellent analysis of the problems involved, and I ask unanimous consent that it be printed in the RECORD.

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

TESTIMONY BY DR. GEORGE JAMES

HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

Scholarship funds are awarded to health professions schools by statutory formula. The formula is 10 percent of the school's full-time enrollment times $2,000.

The President's budget requested $16 million which provides full funding of the statutory formula and will assist about 18,000 medical, dental and other health professions students. These funds will provide scholarship aid to students of exceptional financial need enrolled in all years of study. Fourth year students became eligible to receive scholarships for the first time this year. The $16 million is an increase of $4,781,000 over fiscal year 1969 appropriations.

House action transferred the increase of $4,781,000 for scholarships over to the health professions loan program. It is cause for serious concern:

1. Such a transfer does not increase the aggregate amount available for student assistance.

2. Based on the Notice of Award for fiscal year 1970, schools have already made commitments of scholarship support to students. (Scholarship funds are awarded under 100 percent advanced obligational authority, i.e., in the last quarter of fiscal year 1969 awards against the fiscal year 1970 appropriation were made in the full amount. The appropriation act of 1969 provided the authority for making such awards.) Such a transfer would require the schools to renege on commitments already made to students.

3. *Because fourth-year students were not eligible to receive scholarship aid until this year, the proposed transfer would deny about 4,500 first-year students scholarship support should the schools award scholarships only to students previously assisted.*

HEALTH PROFESSIONS STUDENT LOAN PROGRAM

The fiscal year 1970 budget requests an appropriation of $15 million for the Health Professions Student Loan Program. This sum, together with an estimated balance of $1,113,000 on deposit in the Health Professions Educational Fund, provides $16,113,000 for fiscal year 1970, which is approximately $10 million below the fiscal year 1969 program level.

The proposal of the House to transfer $4,751,000 from the Health Professions Scholarship Program to increase the availability of loans offers no relief since it does not increase the aggregate amount available to assist students of medicine, dentistry, osteopathy, podiatry, optometry, pharmacy and veterinary medicine.

The House transferred the scholarship increase to loans, thus providing only about $1 million more in loan funds this year than last, at the same time decreasing scholarship aid by $5.5 million, or 5,500 scholarships, or the same level as last year!

In effect, the House made available only $1 million more (in loans) for all of nursing student aid. The same number of scholarships will be available as last year. This, when we need *141,000 nurses right now* (House Report on Health Manpower Act of 1968)!

The effect of this transfer would be to prevent many students from entering nursing. Many are too poor to enter on their own, and are reluctant to commit themselves to long range loans. We know that the percentage of female high school graduates entering nursing has decreased from 4.9% in 1965 to 4.5% in 1968. In order to reverse this trend, and in order to provide career opportunities otherwise not possible, it is necessary to increase scholarship aid. *Even at the $12 million level, scholarships would be provided only for less than 10% of the student nurse population, even though at least 30% of nursing school students need financial help badly.*

Further, loss of students whose actual enrollment depends on the availability of scholarships will mean that at the $6.5 million scholarship level, it is probable that *overall enrollment will be decreased,* at a time when our need for nurses is staggering (the committee report for the Health Manpower Act of 1968 states that *we need 141,000 more nurses right now!*).

Further, with respect to loan versus scholarship aid, the present value of the loan dollar to be repaid perhaps ten years hence, is very small, especially when compared to the potential return from scholarship funds that would provide a productive future for students from low income families and perhaps help to break the poverty cycle.

GRADUATE PUBLIC HEALTH TRAINEESHIPS

The situation concerning student assistance for *Graduate Public Health Traineeships* is clearly, yet unfortunately, depicted in the appropriation history which shows the FY 1970 budget request of $8,000,000 preceded by that same amount in 1967, 1968, and 1969. When needs for health professionals with graduate or specialized training in public health are rising rapidly and severe shortages already exist, and when the costs of education are rising, too, a constant appropriation for traineeship grants can only mean that not enough physicians, dentists, nurses, sanitarians, and other health personnel are receiving training which prepares them to serve in leadership and administrative positions in public health.

The legislative authorization of $10,000,000 would appear to be a minimal level of traineeship support, to regain lost ground and begin to build a stronger base from which to produce numbers of professional public health manpower more in line with current needs.

TRAINEESHIPS IN NURSING

At present, one of the most serious constraints in increasing the numbers of nurses in practice is the faculty shortage in nursing schools. Lack of prepared faculty to fill existing positions and those in new programs causes an acute problem at a time when greater numbers must be taught. In 1968 there were 1,793 unfilled budgeted positions for faculty members. Even more discouraging was the fact that of the teachers filling positions, over 23 percent were not qualified to teach. Any increase in enrollment and development of new programs is completely dependent upon the increase in numbers of teachers for all types of educational programs.

Between 1950 and 1968, the estimated number of practicing professional nurses increased from 375,000 to 659,000, a gain of 76 percent. In the same interval both practical nurses and nursing aides more than doubled. This means that a larger number of prepared nurse supervisors are needed to effectively utilize these nursing team members in providing patient care.

There is an increasing specialization in medical practice requiring more nurse specialists in the clinical areas. The practice of nursing is becoming more and more complex and calls for an increasingly higher level of nursing skills and academic preparation to staff the growing number of specialized service units, such as coronary care, kidney dialysis, and intensive care units.

The full authorization for Traineeships is needed to help decrease the growing gap between the supply and demand for these types of nurse leaders.

ALLIED HEALTH TRAINEESHIPS

Traineeships under the program assist individuals who have completed basic professional allied health training to pursue advanced training to become teachers, supervisors, administrators, or specialists. It is a fact that the grated ingredient to increasing additional allied health personnel is the lack of qualified teachers. Health education institutions know this—but the 1970 budget request, agreed to by the House; is far below the level the institutions are anxious to accept.

Too many students have been unable to take desired advanced education because they cannot obtain financial aid. Numerous allied health training centers have seen their approved traineeship grant applications go unfunded, while even the more fortunate grantees have had to accept reduced awards.

Another serious shortcoming which results from the lack of appropriations at full authority is the inability of institutions to locate short-term traineeship monies. Through short-term traineeship support, personnel already employed in allied health occupations could update and improve their skills, and individuals returning to this labor force after being inactive could update their respective competencies.

Below is a table comparing authorizations and appropriations, as well as the budget request of this year.

Traineeships:	
1968 appropriation	$1,500,000
1968 authorization	2,500,000
1969 appropriation	1,550,000
1969 authorization	3,500,000
1970 budget requests	1,550,000
1970 authorization	5,000,000

As can be seen, now, when the enormous deficit in allied health manpower is becoming increasingly evident, the same amount, $1.5 million is requested for 1970 as was requested in 1968 and 1969, even though the authorizations have been increasing from $2.5 million in 1968 to $5.0 million in 1970.

THE HEALTH PROFESSIONS EDUCATIONAL IMPROVEMENT GRANTS

The Health Manpower Act of 1968 authorizes institutional (formula) and special project grants to schools of medicine, dentistry, osteopathy, optometry, podiatry, pharmacy and veterinary medicine. The formula grants are to assist schools in increasing their enrollments and in improving the quality of their educational programs. The special project grants are to assist schools in (1) increasing their enrollments, (2) providing for accreditation, (3) meeting serious financial difficulties and (4) for other purposes specified in the Act.

The President's budget requests $101.4 million for fiscal year 1970 for health professions educational improvement grants. Of this amount, $46.5 million is requested for institutional (formula) grants. *Most of the $12,784,000 increase for institutional grants will be awarded to schools of pharmacy and veterinary medicine which became eligible to receive these funds for the first time in fiscal year 1970.* The balance of $54.9 million is for special projects. A total of $34 million is needed for continuation of previously awarded special project grants; $10 million is to be used for the physician augmentation program, *leaving only about $10.9 million for new special projects.*

The legislative authorization for educational improvement grants for fiscal year 1970 is $117 million. The President's budget request is $15.6 million short of the authorized level. Appropriation of the full amount authorized would provide $26.5 million for new grants this year. Considering the number of medical and other health professions schools in serious financial plight, even the full authorization is inadequate to meet the need. Nevertheless, with full funding the immediate financial crisis of the schools can be ameliorated. Schools planning to develop special programs to reduce attrition, thus increasing the supply of health manpower, require additional funds to implement these programs. Special tutorial services are also needed as disadvantaged students are accepted in increasing numbers into the rigorous curricula of the health professions schools. Experimental projects to reduce the length of training also require support. With more dollars available, the schools will be able to begin to carry out these important changes which will ultimately have a beneficial effect on the supply of health manpower and the delivery of health care.

NURSING INSTITUTIONAL AID

The Health Manpower Act of 1968 authorizes a combined appropriation of $35 million (the budget request and House action was $7 million—one-fifth of authorization) for two separate programs: *Institutional (formula) Grants to over 1,300 schools of nursing* to assist them in carrying out their functions and *Special Project Grants for the Improvement of Nurse Training.* The law further specifies, of the sums appropriated, $15 million shall be for Special Project Grants.

Institutional support grants will enable all schools to improve student-faculty ratios, attract more highly qualified faculty and strengthen and enrich basic curricula. They will also permit schools to apply new educational methods and innovations to professional nursing education. However, *it would require a $20 million appropriation if each of the 1,300 nursing education programs were to receive the basic $15,000 institutional grant.*

With the trend of nursing moving from hospital based programs into the mainstream of education in junior colleges and universities, the acute shortage of qualified teachers of nursing becomes critical. Because of this, new ways have to be found to train nursing students in shorter periods of time and to train larger numbers of students with the same short supply of qualified teachers.

The nursing project grant program was expanded under the Health Manpower Act to provide funds with a preference to schools of nursing in need of financial assistance to continue in operation or avoid curtailment of enrollment or reduction in the quality of training provided. Full authorization in 1970 for this program is $15 million for applicants among 1,300 schools of nursing and public and non-profit institutions now authorized under the law.

As the American Nurses Association reports, of extreme concern is the reduced amount which the House has approved for the two types of institutional grants and the construction grants under Title II of the Health Manpower Act of 1968. The Law authorized a maximum of $35 million for institutional grants, yet only $7 million is provided by the House measure, H.R. 13111. This drastic reduction carries double significance if it is remembered that there are two types of grants in this category: one relates to special projects for improvement in nursing education (Section 805); the other provides basic support funds for schools of nursing (Section 806). However, the law stipulates that no basic support funds can be available unless $15 million is first allocated for the special projects. Thus, the appropriation of only $7 million for both types of grants has the effect of wiping out the basic support program entirely and sharply reduces the funds available for projects to improve nursing education.

Unless the total authorization of $35 million is made available, there will be no funds for institutional grants. Unless Congress will consider an amendment to Title II, P.L. 90–490, which would set up separate authorizations for each of these programs, the same problem is likely to occur in each fiscal year.

PUBLIC HEALTH INSTITUTIONAL AID

Although *Project Grants for Graduate Training in Public Health* are authorized at $8,500,000 for FY 1970, the budget request is held at the 1969 level of $4,917,000. Consequently, there is a continuing backlog of approved but unfunded grant applications from institutions which seek to modify existing and develop new academic programs to meet changing social and health needs, to relate to new health technologies, and make utilization of scarce public health manpower more effective. These schools are unable to hire new faculty and otherwise invest in the educational resources necessary to initiate, strengthen, and expand public health courses at the graduate level. Further, there can be no expansion of support to the broader base of institutions that provide graduate professional education in the administration, delivery, and evaluation of community and environmental health services.

Educational institutions in this field have consistently appealed for the higher level of fiscal support required by public health manpower demands and which they have demonstrated they can utilize effectively.

Formula Grants to Schools of Public Health, which are authorized at $7,000,000 for FY 1970, are intended to assist these schools in providing comprehensive professional education and training, specialized consultative services, and technical assistance in the field of public health. These grants serve to help the schools improve, modify, and expand their teaching programs in an attempt to meet the constantly growing demand for professional public health personnel. However, in spite of the rising deficit in the supply of these health workers, increases in costs of educational activities, and the participation of additional schools in this grants program, *the budget request for FY 1970 is held at $4,554,000 the same level as in FY 1969.* This means that a greater potential teaching resource, in the aggregate, faced with almost overwhelming costs and demands, has proportionately less support to hire new faculty, add needed supporting staff, and face other elements of keeping its programs up-to-date.

It seems more than evident that the full $7,000,000 authority is needed to provide an adequate base of support for the 15 schools which were receiving these grants prior to FY 1969, and the new school which became accredited and then eligible for support in that year.

The House voted, in both instances, the budget request.

ALLIED HEALTH INSTITUTIONAL AID

Under the Allied Health Professions Personnel Training Act of 1966, as amended by the Health Manpower Act of 1968, accredited junior colleges, colleges and universities which meet certain eligibility criteria may receive Basic Improvement Grant awards for the improvement and strengthening of their training programs in specified allied health curriculums. Unfortunately, the funds available for this program for the past three years have covered only 40.6% (1967), 95.6% (1968) and 78.1% (1969) of the formula amount to which the schools were entitled. The FY 1970 budget request for these grants, *held at $9,750,000 again,* as in FY 1968 and 1969, *and will result in a lower proportion of the statutory entitlement's being funded since the base of grantee institutions and their enrollments is increasing.*

Despite the significant advances the schools have made in improving their teaching programs and expanding their enrollments, their progress has been delayed by the lack of full funding for the Basic Improvement Grants. They have been unable to hire greater numbers of faculty under the reduced grants, and even the level of program support reached in FY 1968 has been cut back severely. If the appropriation picture does not improve, these institutions will be further discouraged from establishing additional training programs and developing them to a point where they are eligible for formula grant support.

If the full authorization of $20,000,000 were appropriated in FY 1970, these grants could be funded at 100% of the entitlement, leaving an estimated $3,000,000 to initiate the program of Special Improvement Grants.

The latter grants are authorized to support the provision, maintenance, or improvement of specialized functions of allied health training centers. However, no Special Improvement projects have been supported since they may be made only from funds remaining after the Basic Improvement Grants have been awarded at 100% of the entitlement.

The Allied Health Developmental Grants to develop, demonstrate, or evaluate curriculums and methods for the training of health technologists were funded in FY 1969 at $1,225,000, which was far short of the $3.5 million authorization. For FY 1970, under a $5 million authority, the budget request is still only $1,238,000, and the consequences of such low resources have been clear.

These grants, if funded at higher levels, would offer the invaluable potential to develop health manpower resources which can extend the availability of health services. This can be accomplished through more efficient and effective teaching programs and through the preparation of health workers at the associate or baccalaureate degree levels whose functions will augment those of more highly trained professionals. *Without this type of institutional grant support educational institutions do not have sufficient means by which to help meet changing manpower needs of existing and future health services delivery systems.*

Faced with scant prospects of competing successfully for the limited funds available, many agencies, institutions and organizations have been discouraged from even applying for these grants. Other applicants have invested their staff resources in designing

and submitting developmental projects, only to be informed that their proposals, even though approved, will not be supported due to lack of funds.

CONSTRUCTION OF HEALTH EDUCATIONAL FACILITIES

Despite the general agreement that the United States faces a critical health manpower shortage, the health professions schools are generally filled to capacity. There are just not enough educational facilities to meet the Nation's needs. It was in recognition of this problem that the Congress authorized a program of construction grants to schools of the health professions beginning in 1965. Since then the number of health professions students has increased but the manpower shortage remains a critical problem and the existing facilities remain filled to capacity. Clearly, the construction program must be stepped up.

A total of $205 million is authorized for Fiscal Year 1970: $170,000,000 for construction of medical, dental, and related health professions schools; $25,000,000 for schools of nursing; and $10,000,000 for schools of the allied health professions. Of this $205 million authorization, however, the Administration has requested only $126,100,000.

Large-scale construction programs are very expensive and contribute to inflation. Nevertheless, the health manpower shortage is critical enough to warrant a massive program of health facilities construction.

AID TO NIGERIA AND THE CALABAR-IKOM ROAD

Mr. GOODELL. Mr. President, what the U.S. Government does in Nigeria and Biafra is of deep concern to the American people.

The Senate will soon be considering the Foreign Assistance Act of 1969. During debate on this bill, I intend to raise questions on several aspects of our project assistance to Nigeria.

I am considering various amendments to deal with certain issues raised by ongoing and planned program aid to Nigeria. I would like to make it clear, however, that I have no plans to move to eliminate all aid to Nigeria. As I have stated on many occasions, our aid should continue, but with special emphasis on relief assistance to those people suffering from starvation in both Nigeria and Biafra.

What I am concerned about is to see to it that our foreign aid projects for Nigeria conform to a "neutral policy" approach to Nigeria and Biafra.

In view of the fact that many Senators have expressed their interest in developments in Nigeria and Biafra, I ask unanimous consent that the following article "AID Bureaucrats Going Full Speed Against U.S. Neutrality on Nigeria" in this morning's Washington Post be printed in the RECORD.

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

[From the Washington (D.C.) Post, Dec. 10, 1969]

AID BUREAUCRATS GOING FULL SPEED AGAINST U.S. NEUTRALITY ON NIGERIA

(By Rowland Evans and Robert Novak)

Although top policymakers in the White House and State Department have ordained a new policy of neutrality toward Nigeria's civil war, a highway of great value to Nigerian federal forces—and potential military use against Biafran secessionists—is being built with U.S. foreign aid.

The decision to build the road with American tax dollars was taken quietly inside the Agency for International Development, with neither specific approval from the White House nor a single word of discussion in Congress.

This project, along with the over-all pro-federal tone of foreign aid to Nigeria, reflects the inability of top policymakers to execute their orders inside the bureaucracy. All the more remarkable, the Nigerian highway project directly contradicts overt congressional reluctance to get entangled in foreign internal disputes following the Vietnam experience.

Actually, the pro-federal bias by AID is a holdover from the official U.S. position of July, 1967, when leaders of the Ibo tribe seceded from the Nigerian federation to form the republic of Biafra. U.S. Foreign Service officers on the African desk, expecting the Biafran revolt to be quickly subdued, sided with their counterparts in the British Foreign Office against the secession. That became Johnson administration policy.

But with the Nixon administration came faint stirrings of change. The new National Security Council staff at the White House under Dr. Henry Kissinger prepared secret memoranda proposing strict neutrality.

Urged by Sen. Charles Goodell of New York and opposed by the AID bureaucracy, President Nixon appointed a special relief administrator to get food to starving Biafra. Finally, on Nov. 12, the switch to neutrality was made official—against the wishes of the State Department's African desk—when Secretary of State William P. Rogers called for a negotiated settlement without the customary pro-federal declaration.

But while the policymaking machinery of the U.S. government was ponderously changing direction, AID bureaucrats went full speed ahead. Unknown even to the NSC, construction started on a new U.S. foreign aid project: a road from the southern port of Calabar running 127 miles northward.

That road constitutes unauthorized intervention into a civil war that could lead to unintended U.S. involvement. About 40 miles of the highway come within 6 to 15 miles of the Cross River, dividing line between Nigerian and Biafran troops. That raises the danger that Biafran troops could kill or kidnap Americans working on the road in Nigerian-held territory—the fate met by European workmen in Nigeria.

Moreover, the highway could be of direct military aid. When it is only half completed north from Calabar, it will form a 200-mile link for the federals to their forward bastion of Enugu. That would mean a major short-cut for the federals, who now send supply convoys some 500 miles east to Enugu from the western port of Lagos. In fact, some military traffic has already been seen on completed portions of the new road.

When AID officials testified before Congress last summer, nothing was said about the road. Its existence was discovered by a private citizen—Christopher Beal, a student at the Fletcher School of Law and Diplomacy—who passed the information on to amazed officials at the White House and on Capitol Hill.

Official assurances that the Calabar road means little have been less than candid. "The contractor working on the road reports only insignificant military traffic," asserts a State Department letter of Nov. 18 to Sen. Goodell. But a confidential AID memorandum for internal use, dated Oct. 26, is less categorical: "Some military and commercial vehicles have been reported using some of the roughly graded sections of the road."

Furthermore, the road reflects over-all AID policy. The agency's official justification for aid to Nigeria (which mentions Biafra only between quotes) is geared to rebuilding federal public works while the war continues.

But curiously, AID bureaucrats show no interest in getting food inside the landlocked Biafran enclave. Prof. C. C. Ferguson, named by Mr. Nixon as Nigerian relief administrator, has been deluged with legalistic nitpicking but very little help from AID. Accordingly, when the foreign aid bill reaches the Senate floor, Goodell will try to eliminate either the Calabar road or all aid to Nigeria.

What makes AID's persistent pro-federal policy peculiarly irrational is the fact that the U.S. cannot possibly compete with the Soviets and the British, currently bidding each other up for influence in Lagos by supplying arms to the federals. Rather, the Calabar road is one more example of the mindless devotion that some Foreign Service and AID officers have for their client countries, despite the risk of U.S. involvement. It is a syndrome that so far the Nixon administration is no more able to break than its predecessors.

PROF. HAROLD M. GROVES

Mr. KENNEDY. Mr. President, Prof. Harold M. Groves, one of the Nation's most effective and revered public finance professors, died last week. I believe that it is particularly fitting that the Senate take recognition of his contribution to improved fiscal and tax policy in the United States at this time, when the most thorough-going tax reform bill in a generation is being considered by the Congress.

Professor Groves spent his professional career at the University of Wisconsin, where he developed many of the current group of the Nation's foremost tax experts. His students are a "Who's Who" in public finance. They include Walter W. Heller, Jesse Burkhead, Richard Goode, John Gronouski, C. Harry Kahn, Joseph A. Pechman, and many others.

In addition to teaching, Professor Groves authored a continuous stream of articles and books on Federal, State, and local taxes. His major objective was always to promote an effective and equitable tax system, at all levels of government.

The Nation will long benefit from his work and it is appropriate that we salute him at this time for his many contributions.

Mr. President, I ask unanimous consent that two obituary notices on Professor Groves, which appeared in the Capital Times and the New York Times, be printed in the RECORD.

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

[From the Capital Times, Dec. 3, 1969]

MEMORIAL RITES SET FOR HAROLD GROVES—NOTED U.W. ECONOMIST

Memorial services for Prof. Harold M. Groves, nationally-known University of Wisconsin economist and a long-time local civic leader, who died Tuesday, will be conducted at 1:30 p.m. Saturday in the First Unitarian Society Meeting House, 900 University Bay Dr.

Friends may contribute memorials to the Harold M. Groves Scholarship Fund, care of the University of Wisconsin Foundation.

The 72-year-old authority on taxation died in his sleep at the family home at 1418 Drake St.

Among his greatest achievements was the enactment of Wisconsin's unemployment compensation law, known as the "Grove's

Law," which was adopted by the Legislature in the early 1930s, the first such law in the nation.

He was an active leader in the co-operative movement and took a leading part in both state and local government.

Prof. Groves also served in Wisconsin's State Senate as a Progressive Republican from 1934 to 1936, and previously in the Assembly in 1930-31. He was an influential force in the world's money market through his studies in economics.

Some time ago he gave an interview praising the establishment of a two-price gold system, and predicted it would work out without disrupting the world's moneys.

His prediction was vindicated recently when the price of gold in Europe's free markets fell close to the official inter-government price of $35 an ounce.

Prof. Groves wrote the foreword for Capital Times Editor and Publisher William T. Evjue's book, "A Fighting Editor."

He was long active as a advocate of Frank Lloyd Wright civic auditorium plans for Madison.

In the Legislature Prof. Groves had been influential in developing teacher tenure legislation. In 1933 he served on the State Tax Commission, in 1934 on the Interstate Commission on Conflicting Taxation, and at other periods on the Madison Citizens Committee on Financial Problems and the Legislative Interim Committee on Unemployment.

A native of Lodi, Prof. Groves studied labor relations and economics at Wisconsin, where he received his Ph.D., studied law at Harvard, and obtained a teaching certificate from UCLA.

He taught history and physics for four years in Rice Lake and Waupun high schools before moving to the UW in 1924 to teach taxation and public finance.

Subsequently he was named John R. Commons professor of economics.

He served two years as an instructor and organizer for the AFL Labor College.

Until retirement in May 1963, Prof. Groves taught "The Industrial Society" in the Integrated Liberal Studies program at Wisconsin. He was the author of several books and frequently served as consultant and adviser in taxation and public finance.

Among his students were Walter Heller, former chairman of the President's Council of Economic Advisers; State Supreme Court Justice Horace Wilkie; Federal Judge and former Gov. John Reynolds, and Leon Epstein, former dean of the UW College of Letters and Science.

Prof. Groves is survived by his wife, Helen, with whom he worked on many city problems and organizations.

Also surviving are three sons, Thomas, Naperville, Ill., a researcher for Argonne Laboratories; Steven, Lexington, Mass., a professor at the Massachusetts Institute of Technology; Rod, De Kalb, Ill., a professor at the University of Illinois; a daughter, Susan, Berkeley, Calif.; two sisters, Susan, 1420 Drake St.: and Mrs. Lerna Steckelberg, Lodi, and eight grandchildren.

[From the New York Times, Dec. 3, 1969]

HAROLD M. GROVES, EX-PROFESSOR, 72—ECONOMIST WHO WROTE FIRST JOBLESS-PAY LAW IS DEAD

Harold M. Groves, an economist and tax expert who devised the nation's first unemployment compensation law, died yesterday at his home in Madison, Wis. He was 72 years old.

Mr. Groves was professor emeritus of economics at the University of Wisconsin, where he had taught for 41 years until his retirement in June, 1968.

He first came to national prominence during the Depression. The Wisconsin Legislature had refused to pass an unemployment compensation bill that had been drafted by University of Wisconsin economists. Mr. Groves himself ran for the State Assembly in 1930, won, and guided the bill through the Legislature.

Mr. Groves was widely expected to be appointed as a tax expert in the Treasury Department by the incoming Roosevelt Administration, but the appointment was canceled by Secretary Henry Morgenthau, Jr. Mr. Groves later spoke critically of the Administration's economic policies.

In 1944 Mr. Groves wrote "Production, Jobs and Taxes," a prescription for a smooth transition to a postwar economy, for the Committee for Economic Development. He advocated a broadly based personal income tax as the main source of government revenue thereafter.

Although he never held an official position, Mr. Groves was often called upon to assess the Government's economic performance. At a symposium of economists organized in 1956 by Harvard University, Mr. Groves criticized the Eisenhower Administration's allergy to public spending."

He was appointed to an advisory panel in 1961 by the House Judiciary Committee, which was studying state taxation of interstate commerce.

Mr. Groves was born in Lodi, Wis. He graduated from the University of Wisconsin in 1919 and received his Ph.D there in 1927. He joined the faculty the same year.

He leaves his wife, the former Helen Hoppes; a daughter, Mrs. Susan Bement; three sons, Thomas, Steven, and Roderick; two sisters and eight grandchildren.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is concluded.

TAX REFORM ACT OF 1969

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. H.R. 13270, the Tax Reform Act of 1969.

The Senate resumed consideration of the bill.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded, now that the hour of 9:30 has arrived.

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

The Chair now lays before the Senate the unfinished business, the question being on adoption of the amendment by the Senator from New Hampshire. The Chair advises that debate on this amendment is limited to 2 hours, the time to be evenly divided.

Mr. JAVITS. Mr. President, I yield 10 minutes to the Senator from Illinois (Mr. PERCY).

Mr. PERCY. Mr. President, I was extremely sorry that physically I was not able to be here last night, but I carefully read the RECORD this morning, and if I heretofore had high regard, as I have had, for the distinguished senior Senator from New York (Mr. JAVITS), it was enhanced even further last night. I could not help but think of the comments I had made before 2,000 members of the National Foreign Trade Convention earlier this month in New York, many of them residents of New York City. In that speech I had described the senior Senator from New York, who is termed a liberal, as one of the great believers in the free enterprise system in America and a man who understood the whole basic principles of capitalism better than almost any man I know in the U.S. Senate.

I do not know what a "conservative" is or what a "liberal" is when a "liberal" is fighting to protect the whole essence of our economy and when "conservatives" are asking for protections against the workings of the free market and to disrupt and wreck the free market, using all the restrictive devices we can think of.

As I read the debate that was carried on last night in this Chamber, I could not help but think of the same arguments that are used to protect and impede the flow of goods coming into this country from abroad. Such import restrictions would impede the flow of goods exported from this country because exports are directly related to imports from any particular country.

I could not help but think that the same arguments could be used when we have a textile industry that has moved from New England to the South. Why not then ask for protection against the disruption of an industry in one part of the country when economic forces are causing it to move to another part of the country? Is not that the same kind of argument that could be used?

Also, if we are going to go to that extent, we could just as well protect one industry in one area from disruption because of technical innovations that have been made. We might as well say that if a man is engaged in the manufacture of ice boxes and someone comes along with a refrigerator, we had better protect the workers making those ice boxes from the unfair competition of the manufacturers of refrigerators. We may as well protect the manufacturers of buggies from the unfair competition of automobiles We may as well protect manufacturers of piston airplanes against the unfair competition of the jet.

It is this kind of logic that I think is causing us to distort our economy.

If the Senate enacts the amendment before us today, I think it would do irretrievable damage. I oppose the amendment for several reasons. I think it is irrelevant, I think it is inconsistent. I think it is unconscionable. I think it is irresponsible. I think it will create unemployment. I think it will lower the standard of living of Americans. I think it will wreck our economic trade policy. I think it shows lack of appreciation and consideration of what the economy of the United States is.

Let me go back over these points briefly. From the standpoint of being irrelevant, this is not an amendment to

increase Federal revenue or bring about any reform in our tax laws. It is a measure purely designed to limit imports and protect and give a subsidy to manufacturers who might otherwise have to adjust because of international competition.

It is not a revenue measure. This country has long since abandoned the thought that taxes or tariffs on imports are for the purpose of raising revenue. So it is irrelevant to the purpose of this particular bill.

It further strengthens the hand of the President when he says he is going to veto this bill if it does not fulfill the function and purpose we set out to accomplish in this particular bill. I for one could not possibly think the President would sign this bill if it had this amendment in it, which is so totally irrelevant to the purpose of the measure being considered by this body.

Mr. GRIFFIN. Mr. President, will the Senator yield for an observation?

Mr. PERCY. I am happy to yield.

Mr. GRIFFIN. I want to associate myself with the remarks just made by the distinguished senior Senator from Illinois and to join him in commending the distinguished senior Senator from New York. Aside from the merits of the particular amendment before us, it seems to me it should be rejected on the same ground that some other amendments have been rejected, and on which some others should have been rejected.

I argued yesterday, for example, that one of the amendments of the Senator from Massachusetts (Mr. KENNEDY) should not be adopted because it was campaign reform, not tax reform, and the bill before us is supposed to be tax reform.

As one who served a number of years in the other body, I must say frankly that there are times when I believe it would be well if the Senate had a rule of germaneness so we could confine our deliberations to the subject addressed in the particular bill reported to the Senate.

There is no doubt that questions involving tariffs, imports, and exports are very important matters, but they are so important that they should be dealt with separately and after very careful committee hearings and consideration. Aside from the merits of the pending amendment—and I am sure that it has great merit in the eyes of many in my own State, I believe the amendment should not be adopted under the existing circumstances.

Mr. PERCY. I thank the distinguished assistant minority leader. The Senator again has demonstrated his clairvoyance in this area and his full understanding of the facts.

I have already mentioned that this amendment is totally irrelevant to the purpose of the bill pending before us. That is the first reason why I would be opposed to the amendment.

The second reason is that I think it is totally inconsistent with what we are trying to do in this body. We are trying to reform taxes, bring about equity, and we are reducing the tax burden on some people, particularly low-income people and middle-income people.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. WILLIAMS of Delaware. As one who agrees with much of what the Senator has said, let me also say that the Senate has not been dealing with tax reform in the last 2 weeks.

Mr. PERCY. I accept the correction. It is why I am coming closer and closer to the conclusion that I simply could not vote for the bill in its present condition. I would like to raise the further point that we would be going against the very thing we have been trying to acomplish—not actually accomplishing, but trying to accomplish in some respects—because what we would be doing by this measure would be raising prices. We would be increasing the cost of living because we would be subsidizing the inefficient industries that cannot compete on the same basis for the consumer dollar. We are going to raise prices by taxing the consumer in order to subsidize the producer.

So it really takes the heat off the fight on inflation. The biggest weapon we can use against inflation today is the threat of imports if our prices so consistently get higher.

The thing that will hold union wage demands down is the facts of life if they see themselves faced with increasing competition from abroad. Otherwise protected and highly cloistered, they can continue to raise wages and companies will simply continue to charge higher prices for every single product. But, threatened with competition from abroad, they are going to have to start thinking in terms of economic sanity and economic balance.

So it is inconsistent with what we are trying to do when, on the one hand, we say, "Let us reduce taxes for lower-income people," and then, at the same time, take another action in the same bill that inevitably will raise prices for those same consumers.

Third, I believe this bill is unconscionable. I simply believe we cannot, as a matter of policy, shift——

Mr. HOLLINGS. Mr. President, will the Senator from Illinois yield?

Mr. PERCY. I shall be happy to yield to the distinguished Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PERCY. I yield myself 10 more minutes.

I point out to the Senator from South Carolina that I must leave the Chamber to sit in the chair of the Small Business Committee hearings at 5 minutes to 10. I have only a few minutes; and because of that, I would very much appreciate being able to finish my argument, and then I shall be happy to yield whatever time may be required.

Mr. HOLLINGS. Just one point. Reference is constantly being made to our amendment as "unconscionable." Is it not within the Senator's knowledge that we do have this provision and authority for the President within the Tariff Act now, in section 1330, and also in the Trade Expansion Act of 1962? What the Senator is objecting to is, for all intents and purposes, written into law today.

Mr. PERCY. Well, if that is true, if we already have it, why should we enact this amendment? I believe the present law is more understandable and clear than this amendment. As the Senator from New York said last night, as an able lawyer he cannot even understand the language in the amendment, and as a law school dropout I cannot understand the language, either. I do not know how the President would apply it. It applies to every country in the world, and to virtually every disruption, whatever the company may be.

Mr. HOLLINGS. Mr. President, if the Senator will permit me, I think the distinguished Senator from New York understands it all too clearly. I do not think there is any lack of understanding on the part of the Senator from New York. He knows, and the Senator from Illinois knows. We have had hearings on this thing. It is not a matter of a lack of understanding, or unconscionable conduct, or discrediting the Senate. What we are trying to do is reaffirm to the Executive our belief that he should handle these foreign trade matters, rather than requesting Congress, and the Senate particularly, to pass these trade measures, with all the different items. We are trying to ask the President to use his authority, and to fix that authority over there, and reiterate it one more time, so there will be no misunderstandings.

Mr. PERCY. I thank the Senator. I wish that on his own time he would explain to us, then, if we already have this power provided in the law, why we need a second measure at this time.

Second, I hope the Senator will explain why it is that Congress, which has always had and cherished this power and authority, should now delegate and shift that responsibility to the President of the United States. It is for that reason I say this measure is unconscionable. We cannot shift to the President, already overburdened as no human being in the world today is overburdened with pressures of all conceivable kinds, the responsibility to determine when there is disruption in a domestic industry, when he should impose quotas, or when he should impose higher tariffs.

I think that responsibility must remain in Congress; and those who think otherwise are motivated, in my judgment, by the feeling that they either want to shift the responsibility and get it away from us so we can always just say it is up to the President, or else they feel that, by exerting pressure in election years on the President of the United States, they can perhaps get a better bargain than by keeping that responsibility where it belongs, in Congress.

Fourth, I consider this measure irresponsible. It is irresponsible because it is irrelevant; it is irresponsible because it is inconsistent; it is irresponsible because it could only invite a veto. If we are trying to kill the tax reform bill, then this would be the way to do it, by adding a measure like this, which is totally inconsistent with the message given by the President of the United States just 2 weeks ago—a brilliant message on our foreign economic trade policy. In that message he reiterated consistently the

policy that he, as President of the United States, felt this country should have, which was consistent with the policy that five other Presidents have enunciated since 1932.

I feel also that we should defeat this amendment because, in essence, I believe it will actually create unemployment. Surely we cannot sit here and be so naive as to think that we could raise tariffs, or we could impose quotas, without having the whole world retaliate against us overnight. In fact, I could name dozens of countries that are just waiting to have the United States of America impose a quota so that they can retaliate. They have been at this business far longer than we have been. They are far more ingenious in devising ways of preventing an American product from coming into their markets. They are the ones that keep saying it is unfair for them to compete with the highly developed industries of the United States, which have a virtual monopoly on certain types of technical knowledge, and which have almost unlimited amounts of capital, resources, skill, and automation. So the producers in those countires are waiting to retaliate against us.

So, Mr. President, because it would actually create unemployment, and because other countries would retaliate by imposing import quotas and it would stop or impede our exports abroad, I further oppose this amendment. I maintain it would actually lower the standard of living in this country. A standard of living is made up of the wages we receive and the prices we must pay for the products we purchase for our standard of living.

I cannot imagine any measure ever imposed and implemented by the President that would do more to increase prices in this country, and thereby lower the standard of living, in addition to sacrificing hundreds of thousands of jobs that depend upon our exports. Three and one-half billion other people across the world want the products of our factories and our farms. The only reason they cannot buy more of them is that they cannot sell us enough of their own products.

I think it would wreck the foreign policy of this country. Other countries would retaliate—countries like Japan, that are now beginning to see the light. I could not be more harsh in my criticism of Japan's foreign economic policy, nor could the Senior Senator from New York. We have both spoken to Japanese officials and indicated we would lead the fight to retaliate against them if they did not open up their country to the importation of products as well as capital.

It is for those reasons, I feel, that we are now making progress, and the Department of Commerce and the President have made considerable progress in recent months. We would simply be reversing that process if we were to start to do the very thing we have been warning Japan and other developed nations of the world against.

Last, I think this amendment misses the whole point of the economy of the United States of America. It is about time we stopped considering that this should be a producer's economy, and recognize that it is not our only job to come on this floor and fight for every single vested economic interest that exists in our States.

I have shoe factories in Illinois, I have steel mills in Illinois, I have many producer friends who come down to me and tell me their tales of woe. But there is not one of them who could ever come down and tell me that they had more trouble than I had, for 25 years in industry, in the highly protected photographic products industry, with imports flowing in from Japan and Germany.

I took the position then—for 25 years—that we should put the interest of the country ahead of those of any single company, that we simply could not ask the country to reverse a foreign economic trade policy because there were adjustments that were required by us because of imports.

This is a consumer economy, it is not a producer economy, and we had better start to have some recognition that we have more consumers in our States than we have producers. It is for that reason that I think the consumers of this country need to be organized better. They had better get a better lobby. They had better get a better understanding as to what is being done to them every time we start to tinker with the whole economic system of this country by trying to gerrymander and rig up the sort of controls that impede the free flow of products.

It is about time we say to the consumer, "You must have a voice." For that reason, I have introduced a strong consumer bill in Congress. For that reason, I feel certain that the consumer interests and the consumers would revolt, when they understand what we would be doing to them with this amendment. If they understood, every single consumer in every single State of every Senator who would vote for this amendment would be calling him to a reckoning.

As I say, I share the Senator from New York's view that the President has ample authority to redress legitimate import complaints. And I also believe that the Congress was too strict in the Trade Expansion Act of 1962 in its prescriptions as to eligibility for "escape clause" relief. However, the President's recommendations in his sound message to the Congress of November 18, 1969, on international trade, would remedy the problem by liberalizing the "escape clause" criteria. Tariff or quota relief would become more readily available to industries seriously injured by imports and direct economic assistance would be easier to obtain by firms and workers under the President's proposals.

Foreign trade is an intricate subject—as are taxation and tax reform. I strongly share the belief the late and great minority leader, Senator Everett M. Dirksen, expressed a year ago—when the Senate was considering Senator HOLLINGS' amendment to tax legislation that would have imposed import quotas on textiles—that trade proposals require careful hearing and deliberation rather than hasty consideration on this floor. If only for this reason alone, I object to Senator COTTON'S proposed amendment to H.R. 13270.

However, I object for a more basic reason than that. As Senator JAVITS has said, this amendment is not germane to the business before us—taxes and tax reform. If this body is concerned with matters of foreign trade, the opportunity for careful consideration of this subject will be afforded in 1970, when hearings undoubtedly will be held on President Nixon's November 18 message and legislative recommendations concerning foreign trade.

As the President stated in that message—

> It is clear that the trade problems of the 1970's will differ significantly from those of the past. New developments in the rapidly evolving world economy will require new responses and new initiatives.

I heartily commend the President for that statement and for ensuing recommendations for new trade legislation that he made to the Congress. It is in that spirit of recognition of change that trade policy for the 1970's must be fashioned.

Policy for the future certainly cannot be advanced by the kind of legislation Senator COTTON has put before this body today. While I commend the Senator for his concern that the President have the necessary authority to defend the domestic economy from injurious imports from abroad, I call his attention to existing legislation providing exactly such authority, as mentioned by the distinguished Senator from New York.

Let us be on with the compelling business before the Senate and leave matters of foreign trade to appropriate hearings in 1970. We then will have the opportunity and the time objectively to review past and present policy and to chart the course for the future.

To describe this amendment in a different manner, what this amendment really calls for is increasing Government interference in the flow of economic forces. Yet the problems of U.S. foreign trade today have been caused by Government actions and policies.

As we meet today, circumstances are far from bright. Some $75 billion in Federal deficits over the past 8 years have helped create rampant inflation in the United States. The deficits have played a major role in wiping out our traditional trade surplus. They have helped produce a $10.7 billion annual balance-of-payments deficit based on seasonally adjusted figures for the first 9 months of 1969.

Meanwhile, we are burdened down by a complex variety of controls on the free flow of capital. In Congress and in the business community, we hear increasing calls to restrict access to the U.S. market for products from other countries. A tragic war continues in Vietnam, draining our resources, contributing to inflation and harming our image in many nations.

The Government is tampering with the basic free flow of economic forces while its proper role should be to improve mechanisms to allow these basic economic forces to operate more freely.

I deplore the role of Congress today. The effect of several hundred import limitation bills threatens to wreck our

foreign economic trade policy. I am pleased to report that my name is not attached to a single one of these bills. Now we have an amendment before us which would affect all commodities.

Domestically, we have rising prices and wages. It is difficult to blame labor for wanting more, just as it is difficult to blame business for passing on their increased costs to customers. Yet, sooner rather than later, we must face up to the fact. Unit labor costs are soaring. In 1968, the increase in hourly compensation outstripped increases in productivity by more than 4 percent. Such inflationary wage increases rob us all of purchasing power, pick the pockets of those who are living on fixed incomes, undermine the job security of American workers and seriously damage our position in competitive world markets. As inflation has accelerated, our manufactured goods have become less and less competitive in world markets. This is why I strongly opposed repeal of the 7-percent investment tax credit. It is vitally needed to help American industry remain competitive.

What, then, is the outlook for U.S. foreign trade?

Looking ahead, I see the prospect of a brighter day for domestic economic stability, which, in time, may ease current pressures for restrictive trade policies. President Nixon is determined to bring the war in Vietnam to an end. He has also demonstrated the kind of needed fiscal responsibility to stem inflation. There has been a budget surplus in the current fiscal year and there should be one next year. I am confident that the administration will bring inflation under control. This would be the largest single factor in improving the competitive position of U.S. goods in world trade. And this is why I fully concur in this anti-inflation program. Domestic economic stability is a prerequisite to export growth and the natural curbing of imports. The President's anti-inflation program is a must and I support extension of the surtax and curbing unnecessary Federal expenditures, including a substantial cut in military spending.

It is true that we must remove barriers many other countries have erected. Clearly, many of the practices engaged in by our trade competitors are unfair to the United States and world trade interests.

The Common Market common agricultural policy, for example, has severely and unjustly hindered our domestic agricultural sector and damaged our trade balances. While U.S. nonagricultural trade rose by approximately 12 percent between 1967 and 1968, agricultural trade declined by close to 3 percent. I believe recent exchange rate changes in France and Germany have begun to awaken our friends in the European Economic Community to the headaches that can arise from such an exclusive policy. As subsidy payments rise to burdensome levels, the Common Market in my opinion, will negotiate a reasonable solution.

Japanese restrictions on the other hand, are more appropriate to a developing country than to one with a highly developed economy. Japan will probably have a $1.5 billion trade surplus with the United States this year. Japanese trade policy has played a major role in arousing the U.S. business community and the Congress to call for protection from foreign imports. Japan must realize that if such actions are taken, they will pay a heavy price. It behooves Japan now to liberalize its trade policies and take steps more suitable for the powerfully developed industrialized country that she now is.

The time is fast approaching then when a new round of negotiations must be scheduled on the issue of nontariff barriers. Preliminary work has commenced in Geneva under GATT's auspices.

Let the administration, then, commence now to lay the foundation for a Nixon round on nontariff barriers and let it move ahead as rapidly as possible in this area.

But let us take positive and constructive steps which will stimulate trade and remove barriers, not create new ones.

We can improve our performance in credit extension, insurance, and guarantee programs. The Export-Import Bank, under the direction of Henry Kearns has begun to guarantee loans of foreign financial institutions to finance purchases of U.S. exports. The Bank has also agreed to extend direct credits to foreign financial institutions on a selective basis for relending to private foreign enterprises to purchase U.S. products.

As good a job as Eximbank is doing, I believe we need to expand its authority to meet the longer credit terms that competitors of U.S. businesses can now offer through Government assistance. The advantage frequently runs to 3 or more years. Terms of interest are also a major cause for loss of foreign trade offers. Under present commercial or Eximbank financed arrangements, American exports must charge 8 to 11 percent interest, as against a subsidized rate of 5 to 6 percent by foreign competitors. If we are serious about expanding our foreign trade, we should more earnestly explore the possibility of conferring authority upon the Eximbank to discount paper under subsidy arrangement or else to authorize the Federal Reserve to provide direct subsidized credit. And, while we are at it, more serious attention should be given to taking the Eximbank out from under budgetary restrictions so that committed loan accounts are not charged against current appropriations.

The tax treatment of U.S. foreign trade operations also must be carefully scrutinized. The Treasury has proposed that American corporations be allowed to establish subsidiaries within the United States for the purpose of selling goods overseas. Payments of U.S. taxes could be postponed so long as the revenue continued to be used in foreign trade and export activity. This provision would enable U.S. exporters to compete more fairly against foreign-owned or foreign-based businesses abroad which benefit from tax preferences and tax shelters. Such corporations could also counter the establishment of subsidiaries overseas and thereby aid our domestic job market and balance-of-payments position.

I believe we should gain the permission of GATT to subsidize U.S. exporters on some percentage basis, for example, 5 or 10 percent, at such times when we are in overall balance-of-payments deficit. Many European members, under the value-added tax arrangement, grant subsidies to exporters even when the economy is in heavy trade and payments surplus. I believe the United States should be able to employ the same authority in cases where we are in payments deficit. Foreign nations would not be so likely to retaliate under such conditions.

But, let me restate my conviction that healthy open economies and vigorous freer trade are an essential foundation for prosperous democratic societies. We are threatened today with trade restrictions and retaliations. Some in this very body are egging us on to engage in similar behavior. We must resist these forces while at the same time taking action to expand freer trade. If we are reasonable and firm, I believe most nations will respond favorably to our leadership.

To show how important exports are to U.S. workers, I ask unanimous consent to have printed in the RECORD a table showing amounts of principal commodities exported in 1968 and the first half of 1969.

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

U.S. EXPORTS OF SELECTED PRINCIPAL COMMODITIES BY HALF YEARS, 1968-69

[In millions of dollars]

Commodity	1968			1969
	January–June	July–December	Total 1968	January–June
Nonagricultural products, total	13,658	14,314	27,972	15,148
Engines, turbines, and parts	536	524	1,060	557
Agricultural machinery; tractors and parts	438	435	823	473
Computers and parts	219	268	487	318
Construction and maintenance equipment	168	187	355	178
Materials handling equipment	222	240	462	247
Other nonelectrical machinery	1,702	1,628	3,330	1,834
Electrical power machinery	259	273	532	282
Telecommunications apparatus	263	272	535	303
Other electrical machinery	604	615	1,219	714
New automobiles	522	450	972	523
Automotive parts	749	781	1,530	888
Commercial motor vehicles	303	320	623	380
Civilian aircraft	725	681	1,406	701
Military aircraft	115	293	408	332
Other transport equipment	355	315	670	434

U.S. EXPORTS OF SELECTED PRINCIPAL COMMODITIES BY HALF YEARS, 1968-69—Continued

[In millions of dollars]

Commodity	1968			1969
	January–June	July–December	Total 1968	January–June
Chemical elements and compounds	608	633	1,241	638
Plastic materials and resins	274	316	590	277
Other chemicals	690	768	1,438	687
Fuels	495	561	1,056	524
Iron and steel mill products	251	331	582	371
Nonferrous metals	380	484	864	399
Professional and controlling instruments	236	234	470	274
Pulp; paper and manufactures	389	433	822	408
Other nonagricultural products	3,155	3,272	6,427	3,406
Agricultural products, total	3,119	3,108	6,227	2,632
Wheat	556	437	993	351
Corn	361	373	734	259
Soybeans	354	456	810	328
Unmanufactured tobacco	209	315	524	192
Cotton	288	171	459	157
Other agricultural products	1,351	1,356	2,707	1,345

Note: Data are unadjusted for seasonal variation.

Source: Department of Commerce.

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

Mr. PERCY. I yield.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for the statement he has made.

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

Mr. JAVITS. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, I am very grateful to the Senator for the statement he has made.

I will, on my own time, deal with the questions that have been raised by the Senator from South Carolina.

The Senator from Illinois is quite right. The Cotton amendment is not the same as the provisions of the act with respect to escape clause relations, and so forth. And in addition, even if it were, it is a fine argument for not having it, as the Senator has said.

My point in asking the Senator to yield is so that I might recall that last night, when I started to speak, I was inspired by the memory—although he is still very much with us, but no longer in the U.S. Senate—of Paul Douglas, Senator PERCY's predecessor whom the Senator from Illinois cherishes.

I said that my labors do not seem very arduous or even important compared to the struggle waged on the floor for years by former Senator Paul Douglas in respect of an open or a closed U.S. economy.

I say to the Senator that not only in this matter, but also in many other things, the Senator is distinguished himself as a Senator of independence, foresight, and statesmanship. And I think he would feel as I feel, more than anything else, well worthy of the line of succession in which Paul Douglas stood. I thank the Senator.

Mr. PERCY. Mr. President, I thank the Senator for reminding me of that section of his comments. I read them this morning with the same deep feelings that I know he has used in expressing them.

I have differed with Paul Douglas in years past on some matters. I suppose the most prominent matter was the Vietnam war. However, I must say that through the years I have worked side by side with him on this one particular subject area.

We did television and radio programs together when I was in business and he was in the Senate. We consistently saw eye to eye. And he has had the enlightened viewpoint of one of the finest economists of this country. And although Paul Douglas was considered a liberal—and by some an extreme liberal—he has more confidence in the American economy and a free trade economic policy and how the business world must operate to serve the consumers than any other man I know who was an economist as well as a legislator.

I am very proud and honored to be able to carry on his work in this area.

I would never want it to be felt that even though we cannot make up for his lack of presence on the floor, many of his good works would be lost because of the turnout of an election.

I am very grateful for my colleague bringing his name into the debate at this time. He was a champion for the cause of the consumer and a believer in the American free enterprise system, as exemplified by the positions he took year after year in this regard.

Mr. JAVITS. Mr. President, the Senator has made two points which seem to me to be critically important and very deserving of comment.

One point that he has made concerns the liberal and conservative. How is it that in trade, it is the liberals who are for the conservative position of an open, competing world and an open, competing country, whereas it is the conservative who takes the position of wanting to close, regulate, and shut off competition both for the consumer and for the producer.

The second point which I think is critically important—and which I made inadequately compared to the way in which the Senator made it—is the question of looking at our country through the eyes of other producers in other countries and what they fear from us, a great colossus of technology and enterprise.

If we are going to have a protectionist world, they would be a lot more afraid than we would. I think if we give them half an opportunity, we can get along.

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

Mr. JAVITS. Mr. President, I yield myself an additional 5 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. Mr. President, they have good reason to fear us, because after the war, we dominated the world economically in a way which, had we not been a people of rather sporting and rather warm and broad feelings, could have easily imposed a tyranny on the world, a tyranny with which we were charged in many quarters with having imposed, even though it was economic.

This represents a real fear by foreign businessmen, foreign producers, and foreign manufacturers. That is a very healthy observation to inject into the debate.

The Senator from Illinois has put it extremely well from the international point of view.

Mr. PERCY. Mr. President, if the amendment were proposed in the parliament of India, I might well understand it. After all, developing nations see things differently. And 200 years ago something like this might have been appropriate for our country. However, for us to deal in fear, for us to be dealing as a country that thinks it needs this kind of protection and needs to have Congress give this kind of authority to the President would be inconsistent with the role a developed, rich nation, the most powerful economic nation on earth has today.

We have heard a great deal from our colleagues about supporting the President. I cannot imagine that we can say on the one hand we should support the President and on the other, when he has made it so unmistakably clear on this issue, that we should try to force authority on him and try to force him into a position of taking responsibility when he does not want it and does not feel it should be appropriately taken.

I quote once again one sentence from the letter addressed to the honorable RUSSELL B. LONG, chairman of the Committee on Finance, from the General Counsel of the Department of Commerce, He states:

> On behalf of the administration, the Department of Commerce is opposed to the enactment of the proposed amendment.

If we want to support our President, let us do it. And this is a good chance to do it during the consideration of this legislative matter, in which we have full responsibiilty and authority.

For all of the reasons I have given heretofore, I vigorously oppose the amendment. I feel that it would be wrong for the country to do it. And this is certainly the wrong bill on which to impose such an amendment.

I yield the floor.

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

Mr. JAVITS. Mr. President, I do not yield now for one reason. I would deeply appreciate it if the Senator from South Carolina would speak on the opposition

time. I would be happy to yield under those conditions.

Mr. HOLLINGS. Mr. President, will the Senator from New Hampshire yield some time to me in which to ask a question of the Senator from New York?

Mr. COTTON. Mr. President, I yield 2 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 2 minutes.

Mr. HOLLINGS. Mr. President, I am delighted to hear a speech made about supporting the President. I went around here trying to get everybody to support the President for the last 3 months. I think we are making real progress now.

The distinguished Senator from Illinois and the distinguished Senator from New York harken to the memory of the former Senator from Illinois, Paul Douglas, whom I never really had the pleasure of knowing intimately. However, since we are talking about liberalism and free trade, I would like to ask the Senator from Illinois if it is not a fact that the Kennedy Trade Expansion Act of 1962 and the Kennedy round itself for expanding trade and removing tariffs and liberalizing free trade was attributed to President John F. Kennedy because of his leadership in this regard.

Mr. PERCY. Mr. President, I think that all Presidents who have had the opportunity to look at the total picture have had this position. Every single President from Franklin Delano Roosevelt has been consistent in national trade policy. By this amendment, we are attemping to junk totally everything that we have learned during the past 35 years.

I had conversations with former President Kennedy on this very subject. He was considerably enlightened. He recognized that world trade could be advanced by the freedom of U.S. trade policies from restrictions and the removal of barriers erected for that purpose. He dedicated himself to that position.

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

Mr. HOLLINGS. The Senator also appreciates the fact that President John F. Kennedy used the same authority as enunciated in the Cotton amendment in order to obtain the long-term arrangement between 34 countries on cotton textiles.

Mr. PERCY. If he used authority which he possessed, and if the President of the United States still possesses such authority, and if that authority is adequate for the distinguished Senator from South Carolina, I cannot see why we should delay passage of this tax reform bill by imposing the very same kind of authority which the distinguished Senator says the President already has. Is this not redundant?

Mr. HOLLINGS. It is redundant in that context, but not according to the Executive; because, while we tell him he has the authority, he keeps running over asking us to put this in, which is substantially what we threatened at his request with the visit of Prime Minister Sato just 2 weeks ago.

Now we put into an amendment what the President, himself, requested by way of a letter to be used in his conferences with Prime Minister Sato, and it is now called unconscionable and redundant.

Of course, we are trying to carry through a policy of consistent free trade, and I will exchange comments with the Senator from New York about the language and the wording and how unconscionable and how un-understandable this thing is.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. HOLLINGS. I yield.

Mr. PERCY. Does the Senator think that if the late President Kennedy were alive today, he would be asking today, under these circumstances, for this authority, or would he be taking exactly the same position President Nixon has taken?

Mr. HOLLINGS. I believe that President Kennedy would be acting under the present authority, and I have said that time and again when I could not get President Johnson to do it, when I could not get President Nixon to do it. They both talked about it, but they did not act, and I am trying to motivate the President into action. That is the purpose of this.

The PRESIDING OFFICER. Who yields time?

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for a unanimous-consent request?

Mr. JAVITS. I yield.

SUBCOMMITTEE MEETINGS DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Antitrust and Monopoly of the Committee on the Judiciary be authorized to meet during the session of the Senate today.

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Trademarks and Copyrights, of the Committee on the Judiciary, be authorized to meet during the session of the Senate today.

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

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. JAVITS. I yield myself 1 minute, to learn whether the proponent of the amendment proposes to use any time now. If not, I will proceed.

Mr. AIKEN. Mr. President, will the Senator yield me 30 seconds?

Mr. JAVITS. I yield.

Mr. AIKEN. I want to say, in regard to the statement that President Johnson would not act in time of crisis, that I never found that to be a fact. I found that when there was a real crisis and action was warranted, President Johnson did not hesitate to take action.

Mr. JAVITS. Does the Senator from New Hampshire desire to use any time? If not, I will proceed.

Mr. COTTON. I will say to the distinguished Senator that this matter was well debated last night. It is at his desire that we have 2 hours this morning. The Senator from Illinois has just talked about how sad it is to delay this bill by discussing the benighted amendment offered by the less intelligent Members of the body. I certainly do not want to delay. The only speech I intend to make this morning is: Let us vote.

So the Senator can go ahead and use his time. I hope I will not have to use mine, because I cannot see that it helps anybody.

Mr. JAVITS. That is fine.

I yield myself 10 minutes.

Mr. President, I feel that the Senate and the country were well served last night. I do not know what the result will be today, but I think that what I did last night was essential to our national health and security and future. I hope I have other such times in the Senate. I thoroughly believe that a very important issue is at stake here and that it is my duty and that of every other Senator who is similarly motivated to lay it before the Senate.

The issue, I repeat, is what I tried to put before the Senate last night. It has three elements:

One, this amendment is completely irrelevant to this bill, absolutely so, and should be tested on that ground; and I will propose in due course to do so.

Two, this amendment endeavors to change, in an amendment on the Senate floor which is irrelevant to the pending bill, not only the existing carefully considered and drafted legislation of the United States in the trade field, but also, it aborts—and I say this to my fellow Republicans—the President's own intention. I will demonstrate that completely in a moment, from his message delivered to us on November 18.

Three, it is unworthy of the Senate to adopt an amendment which will signal to all mankind the fact that the Senate of the United States is going protectionist at the very moment when there is the gravest danger of a trade war in the world.

Therefore, the Senate's views are essentially dictated by a very local and sectional interest, which I do not in any way depreciate, and on which I make no findings as to the general interest in the country. If Senators feel that they have a particular sectional interest which should prevail in a given case, it is their duty to fight for it. But it is also the duty of other Senators who see the total of the national interest to fight at least as hard in order to prevent what could be a disaster for the country, and that is the purpose of my undertaking the opposition to this amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New York has 25 minutes remaining.

Mr. JAVITS. Taking these arguments, in turn, I said that this endeavor to reverse existing law and this question have been challenged.

Mr. PROXMIRE. Mr. President, will the Senator yield to me now, or would he prefer to do so later?

Mr. JAVITS. I yield to the distinguish Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from New York on what I think is one of the

most remarkable performances I have seen in the 12 years I have been in the Senate.

I was in the Chamber last night when the Senator from New Hampshire called up his amendment. I have great respect for the Senator from New Hampshire. I think NORRIS COTTON is a man of great ability, and, of course, I respect him as the ranking minority member of the Committee on Commerce and a man who has demonstrated again and again his ability in this area and his great concern and knowledge.

However, what the Senator from New York did last night is unusual, because the Senate was sweeping along with an amendment which has great popular appeal and, on the face of it, great merit.

I should like to ask the distinguished Senator from New York whether, to his knowledge, there were any hearings in the Ways and Means Committee or in the Finance Committee on this very far-reaching amendment which is before the Senate, which I understand the Senator from New York has told the Senate would give up, in his view, control over tariff policy to the President of the United States, would surrender it.

Mr. JAVITS. I know of none whatever.

I am grateful to the Senator from Wisconsin for his gracious statement about me. I should like to point out to him that the President has asked for a new test altogether different from the one that is in the Trade Act now, and different from the one contained in Senator COTTON'S amendment.

The President says in his message:

> I recommend the liberalization of the escape clause 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.

I shall read that again:

> Relief should be available whenever increased imports of a primary cause of actual or potential serious injury.

Now I should like to read what Senator COTTON'S amendment says:

> (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,

The key comparison is on page 1 in lines 7 through 10 of the Cotton amendment which states:

> (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

I cannot see the remotest relationship or comparison, except for the use of the one word "injury," between this definition and the President's requested definition, or the definition of the Trade Adjustment Act which reads:

> The President may proclaim such increase in or the imposition of any duty or other import restriction on the article causing or threatening to cause serious injury—

Mr. President, I wish to repeat those words: "causing or threatening to cause serious injury to such industry as he determines to be necessary to prevent or remedy serious injury to such industry."

The courts have a stack of cases and the Tariff Commission has a great many cases interpreting "serious injury." There is always a major argument about whether or not the serious injury is attributable to imports or how the President wants to clarify that.

I challenge anyone to find the word "disrupt" anywhere or to bring in a definition which will be credible to the Senate in passing any such operative statute which is based on an undefinable concept or one so broad a concept that the President could do anything he pleases.

If one uses the word "disrupt" literally, everyone disrupts. A tariff disrupts, any regulation disrupts. The United States, under section 22 of the Agriculture Adjustment Act is disrupting in all commodities in which it imposes quotas. I can read the list.

In addition I do not understand this situation. Our farmers now have $2.6 billion worth of exports a year. We are complaining against the Common Market and say they are messing up the world because they want to turn protectionist. Here we give them an open invitation. I do not understand it. The farm bloc is supposed to understand the farmer. I do not understand anything like this.

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

Mr. JAVITS. I yield.

Mr. AIKEN. Mr. President, with respect to what I said about President Johnson taking action when there was a crisis and action was needed, we had a case of Common Market countries undertaking to submerge our dairy market in the United States and President Johnson, under existing law, took action and established quotas which really saved the American dairy industry from disaster. That is in the law now.

Mr. JAVITS. I am grateful to the Senator from Vermont.

Mr. AIKEN. I want to give President Johnson all the credit I can because he did not take all my advice.

Mr. JAVITS. I thank the distinguiished Senator from Vermont.

Mr. President, I wish to read this language to the Senate:

> Pursuant to authority important restrictions are presently applied in the United States against imports in certain specified dairy products and also on cotton, wheat, and peanuts.

So right now we are disrupting.

Mr. PROXMIRE. Mr. President, will the Senator yield further?

Mr. JAVITS. I yield.

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

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 additional minutes.

Mr. PROXMIRE. I wish to ask the Senator from New York if it is not true that if some Senator took the message and extracted from it the legislative proposals and introduced them as amendments on this bill there would be a tremendous protest on the floor of the Senate because we would have short-circuited the hearing process, there would have been no legislative hearings, and no one could have appeared and testified for or against it.

Mr. President, I submit that the Senator from New Hampshire, who is a great man and a man with vast experience, in a sense is doing this.

Let us assume——

Mr. COTTON. Mr. President, will the Senator yield to me on my time?

Mr. JAVITS. I have the floor. I yield to the Senator.

Mr. COTTON. Mr. President, I yield myself one-half minute.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. COTTON. How many hearings did they hold on the social security amendments? How many hearings were held on all of the many amendments that have been tacked on to this bill? It is a little ridiculous to wail and wring one's hands on the floor of the Senate that the committee did not hold hearings. We have in the tax bill so many matters on which the committee had no hearings that one can hardly count them. This is ridiculous.

Mr. PROXMIRE. Mr. President, I wish to say to my good friend from New Hampshire it is true that no hearings were held on some matters involved in the tax bill and that is regrettable. However, extensive hearings were held on most provisions that have been offered and agreed to; although not all of them.

In this case we have a completely different kind of consideration. The Senator from New York has made the point. This amendment is not relevant. This is a trade matter and the amendment goes very far. Here, above all, we should have hearings.

When the Reciprocal Trade Act was passed, and it is not as far reaching as this, there were extensive hearings which took many weeks and months. Under these circumstances, where we have something that is not relevant to a tax bill and something that is very far reaching and something which runs counter to the proposal of the President, we should have a record and we should know what we are doing.

Mr. President, I want to thank the Senator from New York for his outstanding service in calling this matter to the attention of the Senate so ably.

Mr. JAVITS. Mr. President, now to proceed to a few other points with respect to the amendment, I promised yesterday I would call to the attention of the Senate what is being jecpardized here, and what we are dealing with, especially in terms of money and jobs. The foreign trade of the United States, export and import, is estimated to provide jobs for 4.5 million Americans. Mr. President, I repeat that figure: 4.5 million Americans. The trade amounts to in excess of $70 million a year.

While it is easy to fix our attention on shoes and textiles, what about fixing our attention on agriculture, which I referred to before, where our agriculture exports, on the whole, run to something in the neighborhood of $3 billion a year every 6 months, according to the record

of 1968, and $2.632 billion for the period January to June of 1969.

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

Mr. JAVITS. I yield.

Mr. THURMOND. Mr. President, I would like to inquire if the figure which the Senator referred to includes the Public Law 480 funds we send and do not get cash for but merely a credit.

Mr. JAVITS. I will find out.

Mr. THURMOND. I understand the figures the Senator has referred to do include that amount. If that is the case it would hardly be a fair figure to use because the farmers in our country do not actually see that money.

Mr. JAVITS. I will check to determine that information. But even with it, it is a fair figure because it represents money in the pockets of the American farmer, whether he gets it from other taxpayers of the United States or in foreign dollars.

Mr. THURMOND. But it comes from the Treasury of the United States.

Mr. JAVITS. I know, but he gets it from other taxpayers who are not farmers and I feel that is a legitimate source of income to him.

Mr. THURMOND. Do we not now have millions of dollars known as counterpart funds in other countries that we will probably never use growing out of this?

Mr. JAVITS. All the Senator is making is a foreign aid argument. I say the farmer gets the money out of other taxpayers of the United States, but he gets it. I will check on the figures and the amount of Public Law 480 funds in it, but I do not think it is relevant to the $2.632 billion for 6 months in 1969.

Those Senators who have automobile factories, computer factories, agriculture machinery factories, engines, turbines, parts, electronic power equipment and telecommunications industries had better take a good look at the figures before they decide what is in their interest because it appears that automobiles, automotive parts, and so forth exported by the United States run in the neighborhood of $2.5 billion a year. Senators who have airplane factories in their States had better consider the fact that $1.8 billion in airplanes and airplane parts go out of the United States.

In short, what is completely omitted—and a sudden strange silence pervades the Chamber when this kind of protectionist approach—and that is what it is—is asked from the Senate, when trade is certainly a two-way street—is that other countries, and labor, will be disposed, as we ought to know by now, to be very happy to retaliate against us, once we start the idea that we are ready for a trade war. That is what the Senate would be signaling.

I do not agree that the best way to negotiate with nations which are just as proud as we are is by making threats. I do not agree with that. I do not agree that the best way to get a voluntary agreement on textiles, or anything else, is by threatening another power.

If we had threatened Mr. Sato, it would have made his position untenable, and he would not be running for re-election if he had yielded to the United States.

Yet, thoughtlessly, that is exactly what the Senate, in my judgment, will be lending itself to if it adopts the pending amendment.

Another point is that New England has changed. It has changed because its textile mills did not have to worry about competition from abroad. They all moved into the South, and New England was practically a whole area of deserted villages. Until what happened? Until miscellaneous industries, such as electronic equipment manufacturers, and other industries which needed highly skilled workers, came to New England and took up the slack.

Now New England is flourishing again.

One of the critically important aspects of the economy of New England, the traditional home of protectionism, is its ability now to trade throughout the world in terms of the highest levels of American technology.

It seems to me that that is a very critical and important point in respect to what is happening in this country, even by section.

Mr. President, the interest of the consumer is at stake.

The PRESIDING OFFICER. The time the Senator from New York allotted to himself has now expired.

Mr. JAVITS. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. JAVITS. In addition, Mr. President, before we signal to the world that the Senate is lined up on the protectionist side, whatever the President may say, if we are going to run it our way, without giving considered judgment to the recommendations in his presidential message which he sent us only a few weeks ago, we had better think about the interests of the consumer which are involved as well, because producers are also consumers.

The consumers of the United States—and the Senator from Illinois (Mr. PERCY) never said a truer word—had better ask themselves the question: "What is happening to us?" Two things are happening having to do with putting American industry on its toes because of the competitive factor. First is the proposal of the United Kingdom to get into the European Common Market, which is critically important to health as well as to the prosperity and the keenness in change, and so forth, of British business.

One of the really strong reasons why the British want to get into the European Common Market is their sensitivity on that particular point.

So far as our own producers are concerned, they need the competition, especially in soft goods, the very goods being discussed here, such as shoes and textiles, in order to keep American business competitive. After all, if things get too expensive and too high in costs of production, our economy will get completely out of line.

Point 2, which puzzles me about the conservative point of view on this trade quota and trade restriction picture, is the issue of labor. That is a very interesting point.

On the one hand, there are claims that American labor knows no limitations in terms of wages, fringe benefits, and in terms of continually shortening the hours of work; that they are just running roughshod over the American economy without any real understanding of the competitive demands upon the economy. On the other hand, the very same people, almost to a man, when we seek to furnish competition for that in terms of the export-import policy of the United States, try to dam up instead of promote and accelerate that kind of healthy competition.

It seems to me that just as we want to keep American business on its toes in terms of giving it some competitive standards that it must meet and deal with, we should want to keep American labor on its toes for precisely the same reason.

Yet, as I say, we have this very strange dichotomy on the part of the very same people who, on the one hand, want to keep American labor competitive and, on the other, will kill off, or endeavor to kill off, any measure designed toward that end.

Mr. President, I should like to sum up our side of the debate regarding the proposed amendment as follows.

First, it is irrelevant to the bill. That is irrefutable.

Second, it represents a signal to the world that the Senate, without waiting for any deliberate consideration even of the President's message, is committing itself definitely to a protectionist and retaliatory course, the effect of which will do only the United States considerable harm; because, as we all know, they have retaliated and they will retaliate because many of the forces within these other countries will be very glad of the opportunity.

Third, the amendment itself, in its terms, represents the kind of law which is so loose in its application and so indefinite as, in effect, to transfer the authority of Congress to the executive.

The PRESIDING OFFICER. The time which the Senator from New York allotted to himself has now expired.

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 additional minutes.

Mr. JAVITS. Mr. President, as to transferring the whole authority of Congress to the Executive, that is something which I can hardly expect, although it may well be that the Senate should consider the fact that this amendment is being offered to an alleged tax reform bill without the deliberation and consideration which even such a move should require.

Again, I have defined and compared precisely the words of the amendment with the words of the Trade Adjustment Act itself and with the words and the definitions that are recommended by the President. It is my deep conviction that the words used in the amendment are the most indefinite, hardest to define, and broadest in terms of a completely blanket grant of authority that we could possibly use in transferring au-

thority to the President of the United States.

For all these reasons, I very much hope that at the appropriate time the Senate will reject the amendment.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield briefly?

Mr. JAVITS. I yield.

The PRESIDING OFFICER. (Mr. TALMADGE in the chair). The time yielded to himself by the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 2 additional minutes. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator from New York has made a strong and convincing case, but I think he has understated his economic argument so far as jobs are concerned. It is true that our exports and imports are in balance. But over the years, we have had a favorable—I repeat favorable—balance of trade. We have had it until recently. I do not know of any economist who does not think we will have a favorable balance in the future. This means that there have been and will be more jobs in the export industries than in industries adversely affected by exports. And this means that to the extent this amendment restricts trade—and it certainly will—it will abolish jobs, not protect them.

The Senator from New York is fighting restrictive legislation. He is fighting to preserve an opportunity for American workers to produce goods for export throughout the world. He has also made a devastating argument for trade providing effective competition at home, so that our prices can remain reasonably stable. We need all the weapons we can get to combat inflation and world trade is a potent weapon.

The PRESIDING OFFICER. The time yielded to himself by the Senator from New York has expired.

Mr. JAVITS. Mr. President, I yield myself 1 additional minute.

I am grateful to the Senator from Wisconsin for pointing out the export surplus proposition. In 1966 we had an export surplus of $3.786 billion; in 1967, $4.033 billion; in 1968, $1.1 billion; for 1969, the indications are that, notwithstanding the disagreement which we have had, we will have an export surplus of $889 million. As a matter of fact, it is expected that we will again resume the export surplus status which has essentially sustained the economic policy of the United States throughout the years.

To the Senator from South Carolina (Mr. THURMOND), I should like to say that the Department of Commerce statistics which I read—and they have just been checked out—do include Public Law 480 funds in the total of $1.4 billion, and they should be added to the figures.

I point out that the figures which I gave would indicate a rate of export of agricultural products of, roughly, $5.2 billion for 1969, assuming the record of 1968 is sustained. Of that amount, 20 percent, or $1.2 billion, is Public Law 480 funds. From the economic point of view, I think that properly represents income. In other words, if it is never paid for or set off by counterpart funds, it is income to the farmers of the Nation from other taxpayers.

Mr. THURMOND. The figures do include Public Law 480?

Mr. JAVITS. They do; that is exactly right.

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

The PRESIDING OFFICER. The Senator has 4 minutes.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. COTTON. If we have a quorum call at this time, it has to be taken out of some Senator's time. Is that correct?

The PRESIDING OFFICER. That is correct, and under the precedents, the Senator from New York does not have sufficient time to complete a quorum call. He has only 4 minutes remaining.

Mr. JAVITS. I yield myself 1 minute. In view of the fact that the Senator from New Hampshire obviously does not intend to use any time, I do believe that Members of the Senate ought to be advised that this matter is coming to a vote by a quorum call.

The PRESIDING OFFICER. Does the Senator from New Hampshire yield time for it? Under the precedents of the Senate, the 4 minutes remaining of the time of the Senator from New York is insufficient for a quorum call.

Mr. COTTON. Mr. President, I yield myself 1 minute to say to the Chair that the Senator from New Hampshire may have to yield some time, and the Senator from New York demanded this time for debate in the Senate this morning. He has used almost all of his time, and I must object to a quorum call being taken out of my time at this point until I know whether I have to use it.

The PRESIDING OFFICER. The Chair will state to the Senator from New York that he has a constitutional right to suggest the absence of a quorum, but not until all time has been yielded back or has expired.

Mr. JAVITS. Mr. President, a parliamentary inquiry, still on my time.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. May I move to table this amendment when my time has expired? Do I have a right to do that?

The PRESIDING OFFICER. The Senator may move to table when all time has expired or has been yielded back.

Mr. JAVITS. And I will be recognized for that purpose?

The PRESIDING OFFICER. The Senator will be recognized.

Who yields time?

Mr. COTTON. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. COTTON. I gave my word last night to the distinguished majority leader that if he acceded to the demand of the Senator from New York for 1 hour on each side, I would try my best—in view of the extent of the debate we had last evening to use only a minimum of time. I do not, however, want to gag any of my good friends.

The distinguished Senator from Maine (Mr. MUSKIE) did not have an opportunity last night to engage in debate. Therefore, I yield the Senator from Maine 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. MUSKIE. I thank the Senator.

Mr. President, I have listened with great interest this morning to the remarks by the Senator from New York. The implication from what he has said is that the question is one of whether we have unlimited free trade or no trade at all with other countries around the globe.

I suggest that the amendment of the distingiushed Senator from New Hampshire is not addressed to either of those very unrealistic objectives.

Every Senator, I think, recognizes the part that international trade plays in the role of the United States around the globe, in the growth of the American economy, and in the interest of our consumers.

The question really is whether, under any conceivable circumstances, the Senate or the Congress of the United States ought to be concerned with the kind of competition which American industry faces in our own markets: whether, under any conceivable circumstances, the American people ought to be concerned as to whether or not unfair competition from imported goods in our own markets threatens the existence and the survival of American interests and American industry.

In my part of the country we have special concern about the imports of textiles and shoes, and, indeed, increasingly about imports of electronic equipment. In all of these three areas competition from abroad in our own markets has grown steadily and at a rate which I think is of concern to all of us.

Using the shoe industry alone as an example, in 1954 imports of shoes from abroad were insignificant, almost at the zero point. Today imports of foreign shoes into our own markets exceed 30 percent of domestic consumption, and in recent years the rate of increase has been steeper than is suggested by those two figures.

The shoe industry, Mr. President, is a very mobile industry. It does not take a great deal of capital to set up a shoe plant and it does not involve much loss to move it, or even to close it, on the part of the entrepreneurs who have invested in it.

There is a disposition in the shoe industry in this country, which can be accelerated very quickly if the present trend in shoe imports continues, to move their operations abroad. This would, in effect, be the movement of American jobs abroad.

What the Senator from New Hampshire is frustrated by is that, in the name of free trade, we are asked to defend the importation of shoes, and other commodities, into this country from countries which themselves impose restrictions on the same commodities.

Consider, for example, Japan. Japan resists, with all the vigor of which she is capable, any import quotas on shoes into the United States; but Japan herself im-

poses quotas upon the importation of shoes from the United States into Japan.

Japan concedes this inconsistency. Japan defends this inconsistency as her right, unilaterally, to protect the Japanese shoe industry.

I agree with the distinguished Senator from New York that trade is a two-way street. But other countries, including Japan—which is possibly the greatest trading nation on the face of the earth—impose restrictions upon the importation of commodities from elsewhere. I think it has been said, and accurately, that Japan at one and the same time may be the world's greatest trading nation and also the world's greatest protectionist trading nation. But Japan recognizes that until the time when we reach the millennium where there can be absolute unrestricted movement of goods and people across international borders, she has a national interest to protect Japanese industry against the disruptive effect of import competition.

Japan promotes that kind of policy. Many of our European trading partners promote similar policies. The European Common Market promotes that kind of policy. All the distinguished Senator from New Hampshire is saying is that until we reach the millennium, there are circumstances——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. COTTON. I yield the Senator from Maine 3 more minutes.

Mr. MUSKIE. Circumstances in which American policy also ought to be concerned with import competition in our own markets, when that competition promotes disruptive conditions which are destructive to the health and survival of American industry.

The vote this morning, Mr. President, is on an amendment which I expect will not be written into law, but the vote this morning gives those of us who are concerned about disruptive import competition in our markets an opportunity to express our concern.

There are negotiations underway in Geneva at the present time, in the field of textiles, involving some of our trading partners. I think it would be in our national interest for them to know, on the basis of this vote in the Senate, that we are concerned. We want to move back the barriers to trade. We want eventually to eliminate the barriers to trade. But when we do so, we must take into consideration the legitimate interests of American industry and American jobs.

I repeat, Mr. President, this is not a question of whether we have no trade abroad. This is not a question, at this point in time, since we have not reached the millennium, of unlimited free trade around the globe. No nation on the face of the earth practices a free trade policy today, and none is likely to next week or next month. We are talking about a policy which will enable American industry to adjust to import competition in our own markets when that competition is disruptive, when that competition takes place under conditions in which foreign imports are given a better break, in our own market, than our own goods.

That is what the Senator's amendment is about. That is the concern it expresses, and because it expresses that concern, I support it.

Mr. PASTORE. Mr. President, will the Senator from New Hampshire yield me 2 or 3 minutes?

Mr. COTTON. Mr. President, first I yield myself one-half minute. I shall be delighted to yield to the distinguished Senator from Rhode Island; I merely wish to repeat what I have said before, that I promised the majority leader that we would hold down the debate.

I yield 5 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I shall not require 5 minutes. I have already said on the floor of the Senate dozens of times what I am repeating now. I have worked with the Senator from New Hampshire, the Senator from South Carolina, the Senator from Maine, and the Senator from Georgia in what has been, actually, an operation of frustration from beginning to end.

I shall never forget the years when John F. Kennedy was a Member of the Senate. He would be sending me telegrams, asking, "Will you cooperate with me to do something about saving the textile industry in New England?"

We would send letters and telegrams down to President Eisenhower, and nothing ever happened. Then John Kennedy became the President of the United States, and, as I think the Senator from New Hampshire has brought this out, we all marched down there saying to ourselves, "Now we have a friend in court. Maybe John Kennedy, who used to send all those telegrams, will do something about the situation."

But what his response? The response was, "Oh, now that I am President of the United States, I have to worry about Okinawa; I have to worry about Matsu and Quemoy, I have to worry about Pakistan; I have to worry about India," until I began to wonder, who is going to worry about the American worker?

Nothing ever happened. We started in 1958. The historic resolution on the decline of the textile industry was introduced by the Senator from New Hampshire. We held hearings all along the Atlantic seaboard. We had labor leaders come in, we had businessmen come in, we had everybody come in and all established that the textile industry was deteriorating.

Realize, Mr. President, that today our exports of textiles are absolutely nil. Nil, and here we are, with one country alone in this world exporting to us 50 percent of the American consumption in certain articles of textiles.

True, Mr. President, we have Vietnam on our hands today. We are pumping $30 billion into Vietnam now. That is giving an artificial boost to our economy; and I certainly hope that kind of artificial boost comes to an end tomorrow. But when it does, where are we going to find the mills that we used to have? Where are we going to find the jobs that we used to have?

We are busy now manufacturing bombs and bullets, and maintaining defense bases everywhere while the people whom we are defending are making refrigerators and televisions, and sending them over here to the American market. I say the time has come when America must look at itself in the mirror, to see what is happening to us.

Here we have this distressing problem of Appalachia, the poor section of the country. That is where our textile mills could do us much good. Yet here we are, pumping more money, seeking to train and retrain people whose jobs have deserted them.

It is a generous act to take a poor fellow who has worked in a textile mill from the age of 20 to the age of 50 and try to retrain him, after his textile job has disappeared. But when he gets to be 50 years old, what are you going to train him for? To run an elevator? Where is he going to get that job running an elevator, if there is no elevator to run? That is our problem.

All we are saying is this: We do not want to be unfair. All of us have voted to extend the Trade Expansion Act. We voted for it time and time again. We were told that this matter would be adjusted. Not too long ago, I had some distinguished parliamentarians from Japan come into my office. I was told, in a very subtle way, that maybe they could reduce textile exports if we gave back Okinawa. That is how ridiculous this is getting to be. What is the connection? What is the connection between Okinawa and the plight of the textile industry in the United States of America?

Here we are. A tremendously prospering Japan today is relying, for its security, on the umbrella of American protection. Europe is doing the same thing; and I am being told here that the Common Market is exporting more than we are. Why not? We cannot go to them because they have restrictions against us, and they can unload on us because we have no restrictions against them.

That is all we are trying to correct here. We are just saying, here today, "Tit for tat." That is all we are asking: reciprocity.

All we are asking here is that, in the case of any nation that has restrictions against us, the President ought to have the right to impose restrictions against them, until and unless they remove theirs. Then we will have a 2-way street. We do not have it today, and that is our problem and our peril.

I do not want to take any more time. I have made this speech a dozen times on the floor of the Senate. I hope that today, Mr. President, our voices will be heard, and that the pending amendment will be agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. COTTON. Mr. President, I yield myself one-half minute. I thank the distinguished Senator from Rhode Island and the distinguished Senator from Maine.

The distinguished Senator from South Carolina (Mr. THURMOND) has been kind enough to say that he would use 1 minute, and then put his statement in the RECORD to enable the Senate to get to a vote. I yield 1 minute to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, there are a number of industries in this Nation whose continued existence is being threatened by the imports of goods produced in other nations by virtual slave labor. I am concerned with the economic health and well-being of American industries in general and the textile industry in particular.

The need for a solution to the textile import problem rests on the overriding importance of the textile and apparel complex to our country. No other industry is as widely dispersed over the length and breadth of our land. No other industry can count some 35,000 separate establishments, has as many employees—2.4 million workers—one-eighth of total manufacturing employment, offers as many increasing opportunities for the minority groups in our country or for others who are disadvantaged in our society, contributes so uniquely to the economic health and growth of so many small communities, and no other major industry is as heavily labor intensive.

The uniqueness of the textile and apparel complex would not in itself cause us to be concerned about its future. But when this industry is confronted by import competition which cannot be offset by any volume of investment, technology, or mechanization—where labor costs abroad are but a fraction of these costs at home—$2.31 per hour for an apparel worker, on the average, at home, and 10 cents an hour for an apparel worker in Korea, for example—and the volume of imports is growing substantially and threatening to grow even further—we have a special problem which cries out for solution.

Imports of cotton textiles and apparel are reasonably restrained through the mechanism of the long-term cotton textile arrangement. Many in the industry, I know, are not pleased that during the 8 years since this arrangement and its 1-year predecessor arrangement have been in effect, imports of cotton products have more than doubled. In the case of several categories of cotton products, the growth of imports has been even more spectacular. But the existence of this arrangement provides a brake on disruptive imports which permits the textile and apparel industry to view its future, in the cotton area, with a considerable degree of certainty. However, this device is not entirely satisfactory.

But we cannot say the same for textiles and apparel made from wool and manmade fibers which are not now subject to import restraints as in the case of cotton. Wool product imports have also more than doubled in this 8-year period. Imports of manmade fiber products have increased 14-fold in the same period.

In 1969, our imports of manmades have been running higher than our imports of cotton products, the first year that this has occurred. At the rate these imports are growing, our imports of manmade fiber textiles and apparel will reach 1.8 billion yards this year—about double what they were just 2 years ago. In fact, over the last 8 years our imports of manmade fiber textiles and apparel have doubled roughly every 2 years.

Imports of apparel made from manmade fibers and blends have experienced the most dramatic growth. They have increased 70 percent in 1968 over the preceding year. In the first 6 months of this year they were up 83 percent over the same period of 1968.

Increases from some countries have been notably spectacular. In the first 6 months of 1969, manmade fiber textile imports from Japan increased 51 percent; from Hong Kong, 43 percent; Taiwan, 132 percent; Korea, 71 percent; Israel, 82 percent—and the list goes on.

The effects on our trade balance are serious. On an overall basis, the United States used to enjoy a trade surplus of as much as $5 billion or more a year. In 1968, that trade surplus showed a substantial reduction to only $835 million. In the first 6 months of 1969 our overall trade surplus was at an annual rate of only $301 million.

The textile trade balance—even if we look only at cotton, wool, and manmades—showed a dramatic change in 1968. Our excess of imports over exports which had been running at about $500 million a year in 1966 and 1967, increased by 60 percent in 1968, to over $800 million. In the first 7 months of this year the annual rate of our textile trade deficit was over $1 billion.

Two recent developments underline so dramatically the need for restraint on imports of wool and manmade fiber textiles and apparel.

In August 1969, textile mill employment was the lowest since December 1967. Total textile and apparel employment fell below 2.4 million workers for the first time since May 1968.

During fiscal year 1969, the ratio of imports to consumption of cotton, wool, and manmades reached an alltime high. During the last 8 years, the share which imports had of our domestic market, doubled for wool products, more than doubled for cotton producers, and more than quadrupled for manmade fiber products.

Mr. President, I have no objection to fostering foreign trade but not at the expense of American jobs or at the expense of American industry. I recognize that it is considered good to be charitable to our neighbors throughout the world but let me remind you, Mr. President, that charity begins at home and my neighbors are Americans and I certainly intend to look out for their interest as wage-earning, job-holding, responsible citizens, first.

An article that appeared in the Journal of Commerce last week has just come to my attention. This article is a report of testimony by witnesses before Congressman Boggs' Joint Economics Subcommittee which is trying to chart U.S. foreign economic policies for the 1970's.

A Mr. Arthur K. Watson, chairman of the board of the IBM World Trade Corp. testified and he endorsed what might be called the "one world" theory of trade and he suggested in effect the eradication of over 2.4 million jobs in this country and the willful destruction of an industry that operates in every State of the Union.

This is the almost unbelievable statement this man made which concerns me so much:

> It would be absurd . . . to predicate future policy on the idea that we are raising another generation of mill hands in America. I'd personally rather have my son in the automotive than in the footwear or textile industries.

Mr. President, this statement is ridiculous.

I resent this smug and ludicrous statement for it is insulting to millions of Americans and it reveals a shortsightedness on the part of one of our so-called industrial "leaders" which amounts to blindness.

I demand an apology by Mr. Watson to every man and woman engaged in the textile and apparel industry in the United States.

Let Mr. Watson make no mistake about it that it is no disgrace to be a millhand and that it never has been. Great generations of America have worked hard and long in the textile industry of this country at all levels and through their efforts the people of this Nation have been clothed. This Nation and Mr. Watson, whose company sells many machines to the textile industry, should be thanking our textile workers for their great contribution not only to America's material wealth, but to the basic bedrock of our way of life.

Mr. President, you can say what you will about the millworkers of this country but they have never sold out American jobs in favor of those in foreign nations. Say what you will, no one can ever accuse the American textile worker of being more interested in his pocketbook and his narrow-sighted selfish goals than in his fellow Americans and their economic well-being. The people who work in textile mills are among the finest in this land. Some of the best people in my State work in textile mills.

Here is a basic industry that is giving thousands of people who are unskilled and untrained an opportunity to earn an honest day's wage in a business that will teach them and educate them to a trade that will stay with them the rest of their lives, provided we do not allow this country to heed the bad advice of Mr. Watson.

Mr. President, there are those who have talked about helping the poor, the underprivileged, and the Negroes in this country, and no industry has done more than the textile industry. The textile industry has made great strides in hiring people who are otherwise unskilled and untrained. They have hired the poor, they have hired the black, they have hired everybody they could, and they are paying them excellent wages.

Mr. Watson probably does not know it but the American apparel industry is paying $2.31 on the average per hour to its workers and yet we would allow the barriers to be dropped so that the country would be flooded by foreign made goods created by individuals who earn 50¢ or less per hour, thereby destroying almost 2½ million jobs.

If Mr. Watson's advice is heeded and we destroy the millhand in this country the economic consequences would shake

the very foundation of the economic structure of America.

Mr. President, Mr. Watson has slandered an entire group of people who are good, solid, strong, God-fearing Americans that constitute part of the great "silent majority" of this Nation, and I will not silently allow any man to glibly cast irresponsible dispersions upon them, or to encourage the genicidal philosophy that he espouses.

Mr. President, I ask unanimous consent that this entire article which appeared in the Journal of Commerce on December 3, 1969, entitled "Congress Gets Foreign Economic Initiative" be inserted in the RECORD at the conclusion of my remarks.

Mr. President, I strongly support this legislation and urge its passage.

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

[From the Journal of Commerce, Dec. 3, 1969]

CONGRESS GETS FOREIGN ECONOMIC INITIATIVES

(By Richard Lawrence)

WASHINGTON, December 2—A host of foreign economic initiatives was suggested for the United States today, ranging from a major new trade negotiation and codes to guide international investment policy to a bigger food aid program to stamp out malnutrition around the world by 1980.

The recommendations came from a diverse panel of Congressional witnesses, but each interested in promoting a better international economic climate.

FIRST PRIORITY

Arthur K. Watson, board chairman of IBM World Trade Corp., told a joint Congressional subcommittee that a more flexible exchange rate system should be the "first priority" of U.S. foreign economic policy in the 1970s.

A Japanese businessman—Akio Morita, Sony Corp. executive vice-president—called on the United States to boldly take the lead for an international negotiation to reduce or end worldwide non-tariff trade barriers.

Former Agriculture Secretary Orville Freeman urged a larger American effort to wipe out world hunger. He also championed a series of international commodity agreements to bring supply into better balance with demand.

One other subcommittee witness—Prof. E. B. Neufeld of Toronto University—echoed Mr. Watson's thoughts about more flexible exchange rates, but also recommended U.S. action in the field of international investment.

INTERNATIONAL RULES

International rules, he said, ought to be devised for such problems as extraterritoriality, including antitrust regulations, export controls and balance of payments restrictions. Governments also should lay down common rules for operations of multinational corporations, he said.

While conceding political problems, Prof. Neufeld tried to encourage the United States to move toward complete free trade with Canada. On "strictly economic grounds," he said, a U.S.-Canadian free trade pact "may well have substantial appeal."

The opinions were delivered at the start of a long set of hearings to try to chart U.S. foreign economic policies for the 1970s. Rep. Hale Boggs (D-La.), chairman of the Joint Economic subcommittee seeking the policy options, promised today that "no significant viewpoint" will be overlooked.

The hearings, he said, will delve into trade, foreign investment and aid, with businessmen, academicians and former government officials slated to testify. Late next year, the Congressional unit will publish its findings, as a guide for both Congress and the administration.

"I am convinced," said Mr. Watson today, "that a degree of flexibility must be returned to monetary arrangements and I believe that world business can live with more frequent and therefore smaller exchange rate adjustments. We much prefer them to the trauma and uncertainty of today's arrangement."

Mr. Watson's testimony indicated that after years of resistance business leaders are coming around to accepting as desirable something other than rigid exchange rates. A lot of today's problems, he said, stem from somewhat outdated international trade and monetary rules. "There is a built-in tendency," he said, "for (economic) imbalances to continue too long."

Mr. Watson lauded U.S. trade policy over the past 30 years as contributing to an unprecedented world growth. The "second priority" for the '70's, he said, ought to be prompt passage of the administration's new trade bill.

By making government help for the import-stricken easier to get, some of the protectionist pressures in this country may be diluted, he suggested. The bill also would help pave the way for nontariff trade negotiations, the IBM executive said. He refuted charges that American business, by investing abroad, is "exporting" jobs. Rather, he said, jobs are being "traded", to U.S. advantage. He cited a 3.6 million increase in U.S. manufacturing employment during the last 10 years.

JOBS CREATED

American jobs, he said, are being created in high profit, high wage industries like computers, while the import surge has been largely in "the older, lower wage and lower technology," industries.

"It would be absurd . . . to predicate future policy on the idea that we are raising another generation of mill hands in America." He added, "I'd personally rather have my son in the automotive than in the footwear or textile industries."

Mr. Watson endorsed President Nixon's recent decision to work for general tariff preferences for the developing nations. And, if a generalized system cannot be developed, "I see nothing wrong with recognizing Latin America and perhaps some Asian nations, certainly including The Philippines, as objects of special concern."

Mr. Morita recommended that in nontariff trade negotiations, the United States first tackle the easier problems, such as formulating international rules in health, sanitary and technical standards and harmonizing patent laws.

TARIFF IS ONLY ONE NEEDED MEASURE

Mr. FANNIN. Mr. President, our problem in this international trade area is the fact that we have allowed ourselves to be priced out of the international markets largely because of labor leaders' demands for wage increases that outstrip productivity. Thus we are faced with a situation where not only are we unable to compete in world markets, but right here at home the U.S. market is flooded with merchandise that threatens the jobs of millions of American workers.

There can be no doubt that we are confronted with some serious trade difficulties today. One of the most alarming facts is that the surplus in our balance of trade—that is, of exports over imports—has virtually disappeared. In the early 1960's this country had a trade balance in its favor of $5 to $6 billion a year. This went a long way to offsetting other elements in the balance of payments, such as foreign aid and foreign investments which have shown a greater outflow of dollars than inflow to this country. By 1968 our trade balance fell to less than $1 billion, and there seems to be no immediate prospect for an improvement this year or even in 1970. And it is not because our exports have shrunk. On the contrary they have been growing at about 8 or 9 percent a year, and by 10 percent last year although much of this increase results from inflation. At the same time, imports rose even faster, by a full 24 percent last year. And here we come to the crux of our difficulty, or at least one of them. We have been losing jobs to our overseas competitors at a rate that cannot be anything but disturbing to us. As the Secretary of Commerce, Maurice Stans, pointed out in September:

If imports of textiles and apparel continue to grow at the present rate there could be a loss of 100,000 jobs a year in this country. (U.S. News & World Report, Sept. 8, 1969, p. 56.)

It is this relationship between inflation and our foreign trade that is far too often lost sight of in the course of labor-management contract negotiations, by labor representatives who push for wage gains that are higher than productivity increases warrant, and by management spokesmen who give in to excessive wage demands in the belief that the consumers will be willing to pay the additional tab.

There is no question that many foreign producers are becoming more advanced in their technology, in their management, in their marketing skills and are consequently becoming increasingly competitive. Their modernization has in many cases followed the American model.

Part of this increased efficiency of production abroad is due to the rapid rise in American owned plants and facilities abroad. Instances are easy to note. The Singer Co., for example, sells its American customers two machines produced in its overseas plants for every one made in the United States. A direct consequence is that its Elizabethport, N.J., plant which once employed 10,000 workers, now employs only 2,000. The Weyenberg Shoe Manufacturing Co. of Milwaukee is currently building a shoe plant in Ireland and plans to ship its annual output of 750,000 pairs to the United States.

There is a growing trend in many parts of the world to put into effect a host of trade barriers against American goods that are a serious handicap to domestic producers. These include quotas, subsidies to their own exporters, border taxes, restrictions on purchases by government agencies and nationalized industries, and a variety of excessive technical restrictions.

How much more critical will the job situation be once we are able to pull out completely from Southeast Asia? Surely we must prepare now to see that we have jobs available for returning servicemen and for those now engaged in production for the war effort in Asia. This makes even more urgent the need to see that our domestic producers are free from unfair and indiscriminate imports from abroad.

While, as I have suggested, there are not a few cases in which we need to pro-

vide specific protection against excessive imports, it is obvious that our primary thrust must be in achieving a higher level of exports.

The responsibility of labor and management in this effort is clear as I indicated in pointing to the need for restraint in the collective bargaining process.

Others have spoken extensively on textiles and I do not wish to dwell on this long, but it is an area in which we must find agreement with Japan or face the destruction of this domestic industry. The President himself recognized the problem when, in his trade message to Congress, he said:

> The textile import problem is a special circumstance that requires special measures We are trying to persuade other countries to limit their textile shipments to the United States in return for provisions which would let foreign producers share equitably in the American market.

For far too long, American producers have been shut out of other nation's domestic markets by various trade barriers, some quite subtle. Now in this and possibly several other areas, we are simply going to have to insist on equal treatment.

American industry, and as a result our domestic economy, is caught between labor demands for wages which exceed productivity, and management's willingness to grant such unwarranted increases if they feel they can get away with it. One basic American industry played that game for too long and is now having a whale of a fight to catch up.

For years major steel producers went along with wage demands which they knew were excessive because they also knew that other domestic producers would have to go along, too. But no one said that Japanese steel producers had to abide by those agreements. As a result, for several years it has been possible to buy certain kinds of steel products—even after adding on overseas shipping costs—from Japanese producers cheaper than these same products can be bought at home. That is bringing competition right to the doorstep.

Television Digest, which is a trade bulletin for consumer-oriented electronics manufacturers, says that TV imports in the first 9 months of 1969 were up 65.1 percent over 1968. Specifically, total imports for this 9-month period were a massive 2.8 million TV sets. At the same time, our country exported for the first 6 months of 1969 a total of only 65,000 TV sets—a negligible quantity.

Of the 2.8 million imported TV sets mentioned above, you will be interested to know that some 653,000 of these sets imported to this country were manufactured by American corporations operating in foreign lands who have felt it necessary to build their plants abroad in order to be able to compete in the face of high wage rates in this country brought about by the imbalance in the laws in our country affecting labor-management relations.

Bear in mind, while total sales are apparently increasing, this same industry source says that major domestic manufacturers such as RCA and Zenith have scheduled production cutbacks with resultant layoffs. Meanwhile, one of the major Japanese labels reports its sales have increased 50 percent in every one of the last 5 years in the export market and it has continuing plans to keep up that kind of marketing.

This year will possibly be the first that domestic brands of color TV will show no increase at all in sales. What is the solution? A friend of mine who is in the electronic distribution business wrote to me·

> It is interesting to note that domestic manufacturers, almost 100%, are importing from their own foreign plants or purchasing from other Asian companies, as well as West Germany and Mexico. The Japanese are finding this competition most difficult to meet, all of which points up how decisively we must move if we are not only to keep up with Japan but all the other countries that are eager to get their products into the United States, thus displacing U.S. citizens from employment.

Later, I intend to offer legislation to further help correct the problem. My proposed assistance is this. You will note that domestic manufacturers have set up plants overseas from which they buy parts of their products. There are three reasons for this: Lower labor costs; fewer redtape problems with the Government; and they are allowed to defer the income tax on the profits of that operation.

I will propose that we allow the same kind of tax treatment to a domestic manufacturer who sets up a plant or a corporation in the United States for the purpose of building products primarily for export.

My proposal would allow a new category of domestic corporation just set up for export manufacturing. The U.S. tax on export income derived through such a corporation would be deferred as long as it is used in the corporation's business or invested in export related assets and not distributed to shareholders. Similarly, the income from such export related investments would be deferred. This would allow the income from financing the acquisition of domestic capital equipment, allocated to export production, to be deferred.

The resulting higher level of U.S. output will mean better job opportunities and will allow more tax revenues thus reducing the current cost to the Government of the deferred tax on export income.

But perhaps the most important thing this proposal would do is to help stop the job drain. This is only a small step compared to the need for action in this field.

We presently have increased demand upon our domestic industry because of the level of Vietnam spending, but when this pressure is eased, as I expect it shall be in a relatively short time, we will really be faced with much more urgent problems.

I want to make it clear that I support the action proposed by the Senator from New Hampshire this morning. He is an able and distinguished Senator and has the welfare of not only his people in his State in mind, but also the general welfare of the Nation. I applaud his efforts and support his amendment. He is taking a much needed step. The long-range solution must, however, be economic and I trust we shall be able in the future to shape legislation together that will help accomplish that objective.

Mr. COTTON. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Hampshire has 41 minutes remaining.

Mr. COTTON. Mr. President, how much time does the the distinguished Senator from New York have remaining?

The PRESIDING OFFICER. The Senator from New York has 3 minutes remaining.

Mr. COTTON. I yield myself 1 minute. Mr. President, it is my understanding that the Senator from New York quite properly desires a quorum call in order that Senators may be appraised of the fact that we are going to have a vote.

The PRESIDING OFFICER. The 1 minute of the Senator has expired.

Mr. COTTON. Mr. President, the only speech that I want to make this morning, having listened again to all the charges about this alleged devastating measure, which is not devastating at all, is a two-word speech, "Let's vote."

If the Senator from New York will permit his 3 minutes to be used toward the quorum call, so that we will not have a rehash afterwards, I am willing to have the remainder of the time for the quorum call taken from my time.

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

Mr. COTTON. I yield.

Mr. PASTORE. I think we ought to hear the other 3 minutes.

Mr. COTTON. That is agreeable with me.

Mr. JAVITS. Mr. President, I yield myself one-half minute.

I comment that I know of the good old New England practice of horse trading. However, I must yield 1 minute at this time to the distinguished Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 1 minute.

Mr. HART. Mr. President, I wish to join in opposing this proposed amendment to the tax reform bill. The amendment is not germane to the legislation before the Senate. Clearly, the subject matter with which it deals should be fully considered by the Congress after deliberation by the appropriate committees and a full opportunity for debate and public comment.

The President, on November 18 of this year, sent to the Congress a comprehensive message on trade and submitted his bill to the Congress. This measure, at the request of the administration, has been introduced by Chairman MILLS of the Ways and Means Committee for himself and for Mr. BYRNES of Wisconsin, the ranking Republican on the Ways and Means Committee. I understand that hearings will commence early next year, and in due course the Senate Finance Committee and the Senate will consider this measure. President Nixon, in submitting this bill to the Congress, has continued a bipartisan tradition of support

of liberal trade policies endorsed by six successive administrations.

Certainly, Mr. President, it is within the context of trade legislation, rather than the tax measure which is now before the Senate, that the amendment of the Senator from New Hampshire should be examined.

This amendment appears to be dealing with two serious problems in international trade policy. In my view, however, the amendment does little to contribute to a solution of these problems and is unnecessary. One part of this amendment ostensibly deals with the problem of disruption or injury to U.S. industries, firms, or workers, due to imports. Mr. President, there is extensive law on this subject and President Nixon's proposed bill proposes important changes in the procedures by which such determinations shall be made. The other part of this bill—discrimination against American exports—also is dealt with in the President's bill and also will receive careful consideration.

It would not be wise to attempt to perfect the language of this amendment by drafting on the floor of the Senate. Rather, it would appear to be the better part of wisdom to consider trade legislation in an orderly fashion. Therefore, Mr. President, I will vote against this proposed measure and urge my colleagues to do likewise.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield?

Mr. COTTON. Mr. President, I yield 3 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 3 minutes.

Mr. BYRD of West Virginia. Mr. President, the free trade amendment that has been introduced by the distinguished Senator from New Hampshire (Mr. COTTON) should go a long way toward protecting our perishing industries and the jobs of millions of Americans.

The amendment authorizes the President to impose, by proclamation, restrictions against imports when foreign countries export products to the United States at will, but establish restrictive tariffs on the importation of American products into their own countries. It directs the President to remove such tariffs, imposed by proclamation under this amendment, once the foreign country in question does away with its restrictions on products manufactured in the United States.

Mr. President, I am proud to join in supporting this amendment, which serves notice to all the world that free trade is indeed a two-way street; and that the time is past when the United States will offer the jobs of its citizens as sacrificial lambs at foreign policy bargaining tables.

I recently introduced, along with my distinguished colleague (Mr. RANDOLPH), S3022, a measure to regulate the rate of foreign imports in selected industries—glassware products, flat glass, electronic products, footwear, steel, and man-made fibers. These industries provide nearly 25 percent of all the manufacturing jobs in West Virginia—jobs that West Virginia, like every other State in the Nation, cannot afford to lose.

The unchecked flow of cheap products from practically every country into the United States poses a serious threat to our working men and women. Both S. 3022 and the amendment offered by the distinguished Senator from New Hampshire are designed to alleviate that threat and rescue America from the role of being a dumping ground for cheap goods produced by cheap labor from abroad. Neither is designed as a restrictive measure, but rather as a measure that will enable America to compete more equitably in the world marketplace—with a work force employed to its fullest potential.

Mr. President, I yield back the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, I think the arguments have been very well marshaled on both sides.

I wish to address an inquiry to the Chair concerning the amendment of the Senator from New Hampshire. I have the greatest respect and regard for him. It is my purpose when the time has expired or has been yielded back to seek a quorum.

Mr. President, it is my intention to suggest the absence of a quorum after the time has expired. Am I correct that I need no time remaining to call for a quorum?

The PRESIDING OFFICER. The Senator has a right to call such a quorum after all time has been used or yielded back.

Mr. JAVITS. Mr. President, also, I have a right to move to table the pending amendment.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I would not do that as a tactic, because I have the deepest regard for the Senator from New Hampshire. I think I could say safely that I would never move to table an amendment of his as a tactic. However, I submit to him for his really sympathetic consideration the fact that one of the most important arguments against his amendment is the fact that it does not belong in the pending bill. It does not belong in this bill especially in view of the fact that we have a Presidential message concerning which I think the Senator from Rhode Island (Mr. PASTORE) in a most interesting way made the best argument against the amendment.

The Senator from Rhode Island pointed out that when he went to the White House, then President John F. Kennedy said:

> I am sorry, my old friend, John, but I have a much bigger panorama now that I must deal with. It is much different from that of the United States Senate as a whole. I appreciate and value the views of my friends and former colleagues. I appreciate the fact that they fight for what they believe is in the best interest of their country.

The economy of New England has changed rapidly. Our economy has changed rapidly. We cannot continue to have a wagon wheel industry forever. However, be that as it may, I feel that the issue should be tested as whether we should try to put this issue in this bill and in this compass or not. And the only way in which I can test that is by a motion to table.

I apologize to the Senator from New Hampshire, who is a most distinguished Senator, but I feel that it is my duty to test the question by a motion to lay on the table.

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

Mr. COTTON. Mr. President, I yield 1 minute to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. JAVITS. Mr. President, that is the only way I can test out the question without testing what will be done on another vote, if that loses, on the substantive matter involved.

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

Mr. COTTON. I yield 3 minutes to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, inasmuch as a question was raised about my arguing on the side of the amendment, the business of these restrictions has been a new gimmick invented since the days of John Fitzgerald Kennedy.

They meet with us in GATT and on the Reciprocal Trade Agreements. They then undermine us with these unilateral prohibitions and limitations. That is not what we are trying to get at.

No one is trying to disturb free trade or the trade expansion agreement. No one is trying to do that at all.

What we are saying is that we want to be treated the way we treat them. We are the only Nation in the free world that does not have a limitation. Every nation has limitations against American exports.

We are saying that where a nation has imposed restrictions against us, we ought to insist upon the removal of those restrictions or we should impose restrictions against them.

All of this came about in recent years. That is the reason why we are in this trouble today.

I know the point of the Senator from New York. And I have been just as much a free trader as he has been. And I still am. But I am saying to Japan, Italy, France, and the other nations, "You take the restrictions off that are imposed against American goods, if you expect us not to impose restrictions against your goods."

What is wrong with that?

Mr. COTTON. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized for 3 minutes.

Mr. COTTON. Mr. President, I wish to point out to the distinguished Senator from New York that I appreciate his kindly feelings toward me. I reciprocate.

His speech last night was hardly a tribute to the supposed intellect of the Senator from New Hampshire. It was rather patronizing, but that is fair in this debate. As far as the Senator from New York exercising his right to move to lay the amendment on the table, he

does not need to apologize to me for exercising any right he has. I do not consider it in any way to be an action taken against me. If the Senator wants to deal with the question in that manner, he may do so.

I would like to say that this is not a protectionist approach. It simply says to the President, "If you need and feel you ought to do some of these things to make trade truly free trade on a two-way street, we want you to know that the Senate will authorize you to do so." But it goes on to say, "If you do, and the country involved removes its restrictions then you shall immediately remove ours."

If that is a threat, if that is an affront, if that is going to disrupt our foreign relations, I just cannot understand it.

Mr. President, in closing this debate, I ask unanimous consent to have printed at this point in the RECORD excerpts from one letter that I selected from many, many letters I have received in the past few weeks. It is a rather pathetic letter from Mrs. Evelyn Erickson, 44 Lone Star Avenue, Farmington, N.H., dated October 21, 1969.

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

FARMINGTON, N.H.,
October 21, 1969.

DEAR MR. COTTON: I have done as much as I can to obtain help in our problem. I have even written letters to the local shopping centers where these shoes are sold and told them that my buying power is gone because by selling these shoes that I have very little work and that my factory is in financial difficulty and I know it too could close at any time. I said multiply me by all the shoe workers and you have to eventually feel it too. I asked them to place my letter in the right hands of the owners of these J. M. Fields, etc. to put my case before them to plead for *voluntary restrictions* on *buying* these *foreign made shoes*. For five winters at least we have seen this coming to our factory, but this is the worst year I have ever seen. We are usually busy by this time of the year. We usually have 25 or 30 racks in our line to do a day. When I left Thursday night there were 3 racks and a couple with nearly no work on them at all. A case or two. Some girls have no work at all. Out for a week at a time, some get a day's work in a week. The steward told me not to quit as they have some 800 cases of women's shoes but to us this is not much. We get $1.50 to $4.50 roughly a rack of 10 cases, so 800 cases won't hold us workers long. But these same cases bring the stitchers $2.00 and more or less pr. case. We get pennies per case.

Someone should be watching things like these foreign imports. I believe we should help people but charity begins at home.

* * * * *

We need help so badly. Some of the men are leaving and trying to get into other jobs. One started at age 16 to be a cutter and is 49 years old now and is leaving. That's a long time to spend in one shop and at 49 to have to leave it.

* * * * *

I want to have that same measure of faith that God is able to help us in our times of need but this really isn't an easy one but He is able to move things for us and I pray He will and soon.

MRS. EVELYN ERICKSON.

Mr. PROXMIRE. Mr. President, I rise to oppose the Cotton amendment. I do so for many reasons.

First of all, it is hastily and generally drawn. Its meaning is unclear. Its implications for the export trade of this country are ominous. It takes an end run around the laws and proceedures and protections which have been hammered out by statute and by negotiation ever since Cordell Hull first nursed the Reciprocal Trade Act through Congress.

It means higher prices for the consumer. Tariffs and restrictions raise the price of goods. They are a subsidy paid for by the ordinary people of this country through higher prices.

This amendment would avoid the antidumping laws and substitute for them, and their requirement that proof and evidence be submitted, strong political and regional pressure on the President of the United States to do by proclamation that which could not be proven under the law.

This amendment would be an end run around the escape clause provisions of the tariff acts.

This amendment could spell disaster to the billions of dollars of American goods which the United States sells abroad. It could mean a great reduction in farm prices, since any action under this amendment would, in my judgment, bring quick retaliation from every importing country in the world. And farm products are among our biggest exports.

This amendment violates the whole idea of freer trade, competitive industry, and international markets. No country can be self-sufficient. It is silly to grow bananas on Pike's Peak or to grow jute in New Hampshire. These products should be imported from those countries which produce them more cheaply, more efficiently, and who have a natural climate in which they grow.

But under this amendment the President could act against banana imports if they tended to hurt some inefficient American producer.

This country has a great genius in industrial production. We are more efficient than most countries in this endeavor. We should concentrate on those things in which we have a natural advantage. But we should properly buy from abroad those things where they are more efficient.

To give the President the authority, and then to press him for action, to place barriers against imports which in some way may harm an inefficient American producer, goes against every principle of freer trade, capitalism, competitive industry, and a market economy.

What we should be doing is pressing every country to remove restrictions on trade. Instead, this amendment is based on the premise that one restriction should lead to another—that two wrongs make a right. That is not true. That will stifle trade and industry and our economy. That is the road to ruin and restriction and recession.

This amendment should be rejected. It fails to meet the real problems of freer trade and the real problems of restrictions, wherever they may lie. It substitutes a meat ax for a scalpel.

It would harm the farmers. It would harm our efficient industries. It would hurt shipping. It would protect the inefficient.

It has little merit. It should be rejected.

Mr. COTTON. Mr. President, I understand that the time of the Senator from New York has expired. I yield back the remainder of my time. Let us vote.

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

The PRESIDING OFFICER (Mr. ALLEN in the chair). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. 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. JAVITS. Mr. President, I move to table the pending amendment.

Mr. BYRD of West Virginia. Mr. President, I ask for the yeas and nays on the motion to table the pending amendment.

The yeas and nays were ordered.

Mr. COTTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. COTTON. It is my understanding that under this vote, a vote "nay" would be a vote for the amendment.

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. PASTORE. It would be a vote not to table the amendment.

The PRESIDING OFFICER. A vote "nay" would be a vote not to table the amendment. The vote would then come on the amendment.

The question is on agreeing to the motion of the Senator from New York. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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 22, nays 73, as follows:

[No. 199 Leg.]

YEAS—22

Case	Harris	Mondale
Cranston	Hart	Nelson
Eagleton	Hatfield	Percy
Ellender	Jackson	Proxmire
Fong	Javits	Tydings
Goodell	Kennedy	Williams, N.J.
Gravel	Mathias	
Griffin	Metcalf	

NAYS—73

Aiken	Bible	Church
Allen	Boggs	Cook
Allott	Brooke	Cooper
Baker	Burdick	Cotton
Bayh	Byrd, Va.	Curtis
Bellmon	Byrd, W. Va.	Dodd
Bennett	Cannon	Dole

Dominick	McCarthy	Saxbe
Eastland	McClellan	Schweiker
Ervin	McGee	Scott
Fannin	McGovern	Smith, Maine
Gore	McIntyre	Smith, Ill.
Gurney	Miller	Sparkman
Hansen	Montoya	Spong
Hartke	Moss	Stennis
Holland	Murphy	Stevens
Hollings	Muskie	Talmadge
Hruska	Packwood	Thurmond
Hughes	Pastore	Tower
Inouye	Pearson	Williams, Del.
Jordan, N.C.	Pell	Yarborough
Jordan, Idaho	Prouty	Young, N. Dak.
Long	Randolph	Young, Ohio
Magnuson	Ribicoff	
Mansfield	Russell	

NOT VOTING—5

Anderson	Goldwater	Symington
Fulbright	Mundt	

So Mr. JAVITS' motion to lay Mr. COTTON's amendment (No. 342) on the table was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from New Hampshire (Mr. COTTON).

All time on the amendment has now expired.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Do I correctly understand that we vote now on the substance of the amendment, and that a vote of "yea" will be to approve the amendment, and a vote of "nay" will be to reject it?

The PRESIDING OFFICER. The Senator is correct.

Mr. YOUNG of Ohio. Mr. President, I ask that the Chair direct that throughout the remainder of today all attachés will either be seated beside their Senators or, in any event, will be seated in the rear of the Chamber, and that the Sergeant at Arms be directed to keep the Chamber clear.

Mr. ALLOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. YOUNG of Ohio. Mr. President, I ask that the Presiding Officer make that order to clear the aisles of everyone not a Senator, and that all attachés must be seated in the rear of the Chamber, or leave the Chamber, unless their Senators specifically request that they remain in the Chamber. That would, of course, not include members of the staff of the chairman of the Finance Committee.

The PRESIDING OFFICER. All attachés will take their seats.

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from West Virginia will state it.

Mr. RANDOLPH. Is the Senate in order when the well of the Chamber is filled with those persons who are walking around? [Laughter.]

The PRESIDING OFFICER. All Senators will please return to their seats.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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 65, nays 30, as follows:

[No. 200 Leg.]

YEAS—65

Allen	Fannin	Pastore
Allott	Gurney	Pearson
Baker	Hansen	Pell
Bayh	Hartke	Prouty
Bellmon	Holland	Randolph
Bennett	Hollings	Ribicoff
Bible	Hruska	Russell
Boggs	Inouye	Saxbe
Brooke	Jordan, N.C.	Schweiker
Byrd, Va.	Jordan, Idaho	Scott
Byrd, W. Va.	Long	Smith, Maine
Cannon	Magnuson	Smith, Ill.
Church	Mansfield	Sparkman
Cook	McCarthy	Spong
Cotton	McClellan	Stennis
Curtis	McGee	Stevens
Dodd	McGovern	Talmadge
Dole	McIntyre	Thurmond
Dominick	Miller	Tower
Eastland	Montoya	Young, N. Dak.
Ellender	Murphy	Young, Ohio
Ervin	Muskie	

NAYS—30

Aiken	Griffin	Mondale
Burdick	Harris	Moss
Case	Hart	Nelson
Cooper	Hatfield	Packwood
Cranston	Hughes	Percy
Eagleton	Jackson	Proxmire
Fong	Javits	Tydings
Goodell	Kennedy	Williams, N.J.
Gore	Mathias	Williams, Del.
Gravel	Metcalf	Yarborough

NOT VOTING—5

Anderson	Goldwater	Symington
Fulbright	Mundt	

So Mr. COTTON's amendment was agreed to.

Mr. COTTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TALMADGE, Mr. RANDOLPH, and Mr. THURMOND moved to lay the motion on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider.

The motion to lay on the table was agreed to.

Mr. SCOTT. Mr. President, the amendment just acted on does not diminish the revenue to the Treasury.

I supported the Cotton amendment to authorize import quotas not because I believe it to be a proper concern of the tax reform bill, but because I wish to register again my deep concern for those hard-working individuals employed by the shoe industry, the textile industry, the steel industry, and others. The very livelihoods of these people are at stake here, and I cannot stand idly by while Pennsylvania continues to be hurt by the present level of import quotas.

The Cotton proposal has been challenged because no hearings have been held on the President's recent trade bill, from which this amendment was excised. This criticism has some validity. The proposal has also been challenged because it may not work. This may be a valid point. But I cast my vote for this amendment in the hope that the administration will recognize the very critical problem encountered by some of our domestic industries.

OIL SHALE DEFINED

Mr. PROXMIRE. Mr. President, I would like to ask the distinguished chairman of the Finance Committee whether the sentence on page 181 of the Finance Committee's report on H.R. 13270 defining oil shale was intended to change the detailed definition on page 104 of part 2 of the Ways and Means Committee Report.

Mr. LONG. No, that sentence was just intended to be a very general introduction to section 504 of the bill. It was not intended to provide a technical definition of oil shale.

ARTICLE I STATUS FOR THE U.S. TAX COURT

Mr. TYDINGS. Mr. President, sections 951 to 962 of the pending tax reform bill work a substantial change in the present status and procedures of the U.S. Tax Court. These sections create, by statute, a long-needed small claims procedure and confer article I status on the court.

The need for a small claims procedure has long been advocated by my colleague, the senior Senator from Washington (Senator MAGNUSON), and he has been joined in his efforts by many of us. I am gratified to see that this tax bill recognizes the need for better treatment for those having small tax disputes with the Government.

By granting article I status to the Tax Court, the bill works a substantial change and elevates the court from its current status as little more than an administrative section of the Treasury Department. Giving the Tax Court article I status is a major improvement; but it does not confer true judicial status upon the court nor does it alleviate the myriad of problems plagueing our tax litigation system.

The Federal tax litigation machinery desperately needs a complete overhaul.

The Subcommittee on Improvements in Judicial Machinery, of which I am chairman, has been engaged in a continuing study of our Federal tax litigation procedures. Our inquiry had its genesis in the hearings held during the 90th Congress on a proposal to grant article III status to the Tax Court. Those hearings revealed that there are serious defects and deficiencies in the structure of the litigation system, which often give rise to gross inequities in treatment among different taxpayers.

As a result of the further studies which came as a result of these revelations, I introduced last year and again in the present session a series of measures calculated to reform the tax litigation system. Hearings of these measures were held by my subcommittee in May of this year, at which time many of the most knowledgeable people in the field addressed themselves to the problems in the structure of the system and suggested possible remedies.

Conferring article I status makes the

Tax Court more like a court. That is salutary but it does not supply the complete answer and that answer must await another day.

I cannot conclude my remarks on the pending legislation without commenting on one further feature of the bill. Under section 954 a judge of the Tax Court will be forced to retire at age 70. That is a salutary provision. I have proposed similar legislation, S. 1507, for all Federal judges, and I note that such a retirement system, in my mind, is not a conflict with article III of the Constitution.

This mandatory retirement age will assure that the benches are manned by men who are physically and mentally able to do the work.

I would also like to point out for the record that the judges of the Tax Court, although now not truly judges, are learned in the law and are dedicated to their "judicial" task. They have worked without the shelter and gift of true independence which other Federal jurists have. This legislation will bring them much closer to that day when they will be joined with the rest of the Federal judiciary.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Geisler, one of his secretaries, and he announced that the President has approved and signed the following acts:

On December 5, 1969:

S. 2056. An act to amend title 11 of the District of Columbia Code to permit unmarried judges of the courts of the District of Columbia who have no dependent children to terminate their payments for survivors annuity and to receive a refund of amounts paid for such annuity; and

S. 2276. An act to extend for 1 year the authorization for research relating to fuels and vehicles under the provisions of the Clean Air Act.

On December 9, 1969:

S. 2185. An act to authorize a Federal contribution for the effectuation of a transit development program for the National Capital region, and to further the objectives of the National Capital Transportation Act of 1965 (79 Stat. 663) and Public Law 89-774 (80 Stat. 1324).

EXTENSION OF LEGISLATION CREATING THE NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 91-202)

The ACTING PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which was referred to the Committee on Labor and Public Welfare:

To the Congress of the United States:

Americans have long given their first concerns to the protection and enhancement of Life and Liberty; we have reached the point in our history when we should give equal concern to "the Pursuit of Happiness."

This phrase of Jefferson's, enshrined in our Declaration of Independence, is defined today as "the quality of life." It encompasses a fresh dedication to protect and improve our environment, to give added meaning to our leisure and to make it possible for each individual to express himself freely and fully.

The attention and support we give the arts and the humanities—especially as they affect our young people—represent a vital part of our commitment to enhancing the quality of life for all Americans. The full richness of this nation's cultural life need not be the province of relatively few citizens centered in a few cities; on the contrary, the trend toward a wider appreciation of the arts and a greater interest in the humanities should be strongly encouraged, and the diverse culture of every region and community should be explored.

America's cultural life has been developed by private persons of genius and talent and supported by private funds from audiences, generous individuals, corporations and foundations. The Federal government cannot and should not seek to substitute public money for these essential sources of continuing support.

However, there is a growing need for Federal stimulus and assistance—growing because of the acute financial crisis in which many of our privately-supported cultural institutions now find themselves, and growing also because of the expanding opportunity that derives from higher educational levels, increased leisure and greater awareness of the cultural life. We are able now to use the nation's cultural resources in new ways—ways that can enrich the lives of more people in more communities than has ever before been possible.

Need and opportunity combine, therefore, to present the Federal government with an obligation to help broaden the base of our cultural legacy—not to make it fit some common denominator of official sanction, but rather to make its diversity and insight more readily accessible to millions of people everywhere.

Therefore, *I ask the Congress to extend the legislation creating the National Foundation on the Arts and Humanities beyond its termination date of June 30, 1970, for an additional three years.*

Further, *I propose that the Congress approve $40,000,000 in new funds for the National Foundation in fiscal 1971 to be available from public and private sources. This will virtually double the current year's level.*

Through the National Foundation's two agencies—the National Endowment for the Arts and the National Endowment for the Humanities—the increased appropriation would make possible a variety of activities:

—We would be able to bring more productions in music, theatre, literature readings and dance to millions of citizens eager to have the opportunity for such experiences.

—We would be able to bring many more young writers and poets into our school system, to help teachers motivate youngsters to master the mechanics of self-expression.

—We would be able to provide some measure of support to hard-pressed cultural institutions, such as museums and symphony orchestras, to meet the demands of new and expanding audiences.

—We would begin to redress the imbalance between the sciences and the humanities in colleges and universities, to provide more opportunity for students to become discerning as well as knowledgeable.

—We would be able to broaden and deepen humanistic research into the basic causes of the divisions between races and generations, learning ways to improve communication within American society and bringing the lessons of our history to bear on the problems of our future.

In the past five years, as museums increasingly have transformed themselves from warehouses of objects into exciting centers of educational experience, attendance has almost doubled; in these five years, the investment in professional performing arts has risen from 60 million dollars to 207 million dollars and attendance has tripled. State Arts agencies are now active in 55 States and territories; the total of State appropriations made to these agencies has grown from $3.6 million in 1967 to $7.6 million this year. These State agencies, which share in Federal-State partnership grants, represent one of the best means for the National Endowment to protect our cultural diversity and to encourage local participation in the arts.

In this way, Federal funds are used properly to generate other funds from State, local and private sources. In the past history of the Arts Endowment, every dollar of Federal money has generated three dollars from other sources.

THE FEDERAL ROLE

At a time of severe budget stringency, a doubling of the appropriation for the arts and humanities might seem extravagant. However, I believe that the need for a new impetus to the understanding and expression of the American idea has a compelling claim on our resources. The dollar amounts involved are comparatively small. The Federal role would remain supportive, rather than primary. And two considerations mark this as a time for such action:

—Studies in the humanities will expand the range of our current knowledge about the social conditions underlying the most difficult and far-reaching of the nation's domestic problems. We need these tools of insight and understanding to target our larger resources more effectively on the solution of the larger problems.

—The arts have attained a prominence in our life as a nation and in our consciousness as individuals, that renders their health and growth vital to our national well-being. America has moved to the forefront as a place of creative expression. The excellence of the American product in the arts has won worldwide recognition. The arts have the rare capacity to help heal divisions among our own people and to vault some of the barriers that divide the world.

Our scholars in the humanities help us explore our society, revealing insights in our history and in other disciplines that will be of positive long-range benefit.

Our creative and performing artists give free and full expression to the

American spirit as they illuminate, criticize and celebrate our civilization. Like our teachers, they are an invaluable national resource.

Too many Americans have been too long denied the inspiration and the uplift of our cultural heritage. Now is the time to enrich the life of the mind and to evoke the splendid qualities of the American spirit.

Therefore, I urge the Congress to extend the authorization and increase substantially the funds available to the National Foundation for the Arts and Humanities. Few investments we could make would give us so great a return in terms of human understanding, human satisfaction and the intangible but essential qualities of grace, beauty and spiritual fulfillment.

RICHARD NIXON.

THE WHITE HOUSE, *December 10, 1969.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 15149) making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Acting President pro tempore:

H.R. 2238. An act to provide for the relief of certain civilian employees paid by the Air Force at Tachikawa Air Base, Japan;

H.R. 4744. An act for the relief of Mrs. Ezra L. Cross; and

H.R. 12785. An act to declare that the United States holds in trust for the Southern Ute Tribe approximately 214.37 acres of land.

HOUSE BILL REFERRED

The bill (H.R. 15149) making appropriations for foreign assistance and related programs 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.

ORDER OF BUSINESS

Mr. TOWER. Mr. President, I intend to call up my amendment No. 407. Prior to calling it up, I ask unanimous consent that I may yield to the distinguished Senator from Michigan (Mr. GRIFFIN) to proceed on a nongermane matter for 12 minutes, without losing my right to the floor.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. SCOTT. Mr. President, prior to that request, will the Senator yield so that I may pose a suggestion as to a limitation of time?

Mr. TOWER. I thought we would get a time limitation after the Senator from Michigan had spoken.

Mr. SCOTT. I withhold that request at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas? Without objection, it is so ordered, and the Senator from Michigan is recognized for not to exceed 12 minutes, on a nongermane matter.

PROJECT XUAN THUY

Mr. GRIFFIN. Mr. President, we are in the midst of another holiday season. Christians are looking forward to Christmas, birthday of the Prince of Peace; and people of the Jewish faith are celebrating Chanukah.

This is a time that brings forth evidence of the goodness in people and genuine expressions of love for their fellow man. For most, this is a time of family reunion.

As Americans celebrate this year, many will need no reminder of the grim fact that we are a nation at war. For thousands of families, with sons, brothers, and husbands in the service, there will be no reunion this year—except in spirit and prayer.

For many families, the anguish of separation will be all the more poignant because they do not know whether their loved ones in service are even alive.

I speak of the families of 1,359 Americans who are either missing in action or held captive in Communist prison camps.

These men are in the hands of a ruthless enemy which flagrantly disregards accepted standards of humane treatment of war prisoners.

Both the United States and North Vietnam are bound by the Geneva Convention on Protection of Prisoners of War. So are 123 other countries, including more than 100 members of the United Nations.

The convention covers both declared and undeclared wars. In the language of the document, it applies to "all cases of declared war or of any other armed conflict which may arise between two or more of the high contracting parties, even if the state of war is not recognized by one of them." Accordingly, it binds the United States, which ratified it in 1955; the Republic of Vietnam, which agreed to it in 1953; and North Vietnam, which acceded in 1957.

But North Vietnam has not abided by the Geneva Convention.

North Vietnam has refused to provide a list of Americans it holds captive.

It has tortured prisoners—tortured them physically, and mentally.

It has refused to release the seriously sick or injured.

It has refused to allow inspection of its prison camps by a neutral third party, such as the United Nations or the International Red Cross.

And, with few exceptions, it has denied prisoners the right to correspond with their families.

There is evidence that prisoners receive both an inadequate diet and inadequate medical care. Enemy-released films and those taken by foreign news services bear witness to this. Two recently released prisoners had lost more than 50 pounds in Communist prison camps.

As of December 1, the Department of Defense was able to confirm, through various sources, that North Vietnam is holding at least 421 American prisoners. But we are certain that the Communists are holding many more prisoners than that.

We know that one U.S. serviceman has been in enemy hands for nearly five and a half years. Four others have been missing or held captive for 5 years. More than 200 Americans have been missing or captured for nearly 4 years. That is longer than any American was held prisoner in World War II.

The Geneva Convention specifically provides that the detaining power—in this case—North Vietnam—shall accept a neutral party, such as the International Committee of the Red Cross, to act as a protecting power for the prisoners. The detaining power must provide the names of prisoners to their families, as well as to the protecting power—such as the Red Cross—to be passed on to the prisoners' country of origin.

North Vietnam has consistently refused to comply with these provisions of the Geneva Convention.

Unlike the Government of North Vietnam, the United States has carefully observed the Geneva Convention.

At present, there are approximately 30,000 North Vietnamese and Vietcong prisoners of war being held in South Vietnam. All have been accorded the status and rights of prisoners of war as spelled out in the convention.

With the cooperation of the United States, the South Vietnamese Government has opened all its detention facilities to inspection by the International Red Cross. The names of prisoners have been made available to the Red Cross, and prisoners have the right to send and receive mail and packages.

Regular and impartial third party inspections have established that the six prisoner camps under control of the South Vietnamese Government conform to requirements of the Geneva Convention.

As Ambassador Rita Hauser, U.S. representative to the United Nations, said in an address on this topic last month:

> We are not claiming a perfect record on this subject. War is ugly and brutal by nature, and violations by individuals have occurred. The point is, however, that the allied command has made every effort to ensure that the Convention is applied. This includes the issuance of clear and explicit orders, and, even more important, thorough investigations and puishment of those found guilty. This policy is confirmed and supported by the continuous review, both official and unofficial, which results from free access to POW's by delegates and doctors of the International Red Cross.

The uncivilized attitude of North Vietnam toward prisoners of war has not gone unnoticed in international circles.

Secretary General U Thant of the United Nations said on October 30:

It is the view of the Secretary-General that the Government of North Vietnam ought to give an international humanitarian organization such as the League of Red Cross Societies access to the Americans detained in North Vietnam.

Only recently, the 21st International Conference of the Red Cross adopted a resolution that appeared to be aimed at Hanoi's callous disregard of its responsibilities toward prisoners of war. On September 13 at Istanbul, the Red Cross Conference approved, 114 to 0, a resolution calling upon all parties—in the words of the document—"to abide by the obligation set forth in the convention and upon all authorities involved in an armed conflict, to ensure that all uniformed members of the regular armed forces of another party to the conflict and all other persons entitled to prisoner of war status are treated humanely and given the fullest measure of protection prescribed by the Convention."

The conference took pains to note that, apart from the convention:

The international community has consistently demanded humane treatment for prisoners of war, including identification and accounting for all prisoners, provision of an adequate diet and medical care, that prisoners be permitted to communicate with each other and with the exterior, that seriously sick or wounded prisoners be promptly repatriated, and that at all times prisoners be protected from physical or mental torture, abuse and reprisal.

Mr. President, if anyone, anywhere, thinks or assumes that North Vietnam is abiding by accepted humanitarian standards, he should listen to the words of Navy Lt. Robert Frishman, who was freed a few months ago after almost 2 years in a North Vietnamese prison camp. Frishman, 45 pounds lighter as a result of his ordeal, made this public statement after his release:

My intentions are not to scare wives and families, but Hanoi has given false impressions that all is wine and roses—and it isn't so.

All I'm interested in is for Hanoi to live up to their claims of humane and lenient treatment of prisoners of war. I don't think solitary confinement, forced statements, living in a cage for three years, being put in straps, not being allowed to sleep or eat, removal of finger nails, being hung from a ceiling, having an infected arm which was almost lost, not receiving medical care, being dragged along the ground with a broken leg, or not allowing an exchange of mail to prisoners of war are humane.

Why don't they send out a list of their prisoners of war? Why do they try to keep us from even seeing each other? Certain prisoners of war have received publicity. Others are kept silent. Why aren't their names officially released? If they don't have any secondary alternatives or motives in mind, then release the names of the prisoners of war so their families will know their loved ones' status. I feel as if I am speaking not only for myself but for my buddies back in camp to whom I promised I would tell the truth. I feel it is time people are aware of the facts.

Those are the words of Navy Lt. Robert Frishman who was released with two others in August of this year.

Mr. President, perhaps it would surprise no one if I were to observe that the Vietcong, as well as the Hanoi Government, has ignored international standards of decency.

The Vietcong contends that it is not bound by the Geneva Convention. But the International Red Cross says that the Vietcong is bound since both North and South Vietnam are parties to the Geneva Convention.

But even if the Vietcong were not legally bound by treaty, there could be no excuse or justification for the savage treatment which it accords prisoners of war. The Vietcong should stand condemned in the eyes of the world for its flagrant violation of general principles of international law, apart from the Geneva Convention.

Close to 400 Americans are missing or held captive by the Vietcong in South Vietnam.

It is believed that Communist forces in Laos are holding a number of American prisoners.

I use the word "believed" because this is the crux of the problem. We simply do not know how many Americans are held prisoner by the enemy and we do not know how many are seriously wounded.

Faced with this situation, the U.S. Government is doing everything possible to ease the burden of American families who wait anxiously for word about their loved ones.

Joint teams from the Pentagon and the State Department have been holding meetings across the country briefing families and reporting candidly on the situation.

Through television news film, we have witnessed the painful and heart-rending sight of servicemen's wives traveling to Paris and other world capitals to seek information about their husbands. As one of them said to a North Vietnamese official:

"Please tell me if I am a wife or a widow."

Instead of providing answers to such questions, the North Vietnamese sought cruelly to exploit the anxiety of these brave women by "lecturing" them on the war and by trying to recruit them into the antiwar movement.

Such odysseys of agony have helped to focus attention upon a situation that the world should no longer tolerate.

What can the American people do about this shocking state of affairs?

During this season of good will I have a suggestion to advance—a suggestion which just might make a difference.

I urge all Americans, young and old, to join in a kind of "demonstration" that will register our deep concern about this appalling situation.

I call upon all Americans, regardless of their feeling about the war, to join in putting as much moral pressure as possible on those responsible.

As I noted earlier, this is the holiday season. During these busy days, Americans are addressing cards in the traditional exchange of greetings.

In the spirit of the season, my family has sent a greeting card to Minister Xuan Thuy, chief of the North Vietnamese delegation to the Paris talks.

I urge other families to send cards too; and in each case to include a message calling upon Communist authorities to release the names of American prisoners, to treat them humanely in accordance with directives of the Geneva Convention—and to free them soon.

They could be freed quickly, for example, if Hanoi would agree to negotiate a release of prisoners on both sides.

Perhaps one card will make no difference, but who can say what a million will do.

In this season of good will—in this time of yearning for peace on earth—certainly nothing can be lost by approaching Hanoi in the spirit of the season.

I am pleased to announce that the U.S. Jaycees, a nonpartisan organization of public-spirited young men, is enthusiastic about this idea; that one chapter in Virginia Beach has been working along similar lines, and that the national Jaycee organization has decided to promote the idea as a national project.

In consultation with the U.S. Jaycees, their national president, Andre C. Le Tendre, their national chairman, Wendell Smith, and other officials of the organization, arrangements have been made for a single mailing address.

Cards should be addressed to:

Project Xuan Thuy,
Box 2600,
Washington, D.C. 20013.

After the mail has been collected here in Washington, the Jaycees will arrange for delivery to the North Vietnamese leaders.

It is my fervent hope that civic, religious, veterans, and other organizations, large and small, will lend their support to this expression of national concern.

In particular, I hope college and high school students will join in this demonstration of human compassion.

It might be said that this effort will be only an exercise in futility. However, let me make this point. The men who run North Vietnam have demonstrated that they can be heartless. But they are not fools. As we have seen, they are interested in American public opinion. And they are not oblivious to world opinion.

Mr. President, I have addressed myself only to one aspect of the Vietnam war, but an extremely important one.

It is my earnest desire that some good will come from this undertaking.

If there is a favorable response, it could well hasten the time when a just and honorable peace will reign over South Vietnam.

Mr. TOWER. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Virginia (Mr. SPONG) for 4 minutes on a nongermane matter, without losing my right to the floor.

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

Mr. SPONG. Mr. President, I thank the Senator from Texas. First, I commend the Senator from Michigan (Mr. GRIFFIN) for his remarks on Project Xuan Thuy, the project of the Jaycees which has just been announced.

Mr. President, the position which the North Vietnamese have taken with regard to American servicemen held as prisoners of war is indefensible. This must be obvious to all our citizens and

to citizens of other nations of the world.

The policy followed by the North Vietnamese represents a callous disregard for these men and their families and a total failure to adhere to international agreements.

During the past few months, there have been numerous expressions of concern for the prisoners of war, the treatment of these men has been discussed by Ambassador Lodge at the Paris negotiations, and officials of international organizations have felt it necessary to call upon Hanoi for a change in policy.

Thus far, all these actions have been to no avail.

Project Xuan Thuy offers a new hope. It can provide the means for an outpouring of United States and even worldwide sentiment against the North Vietnamese position. It may provide a public pressure which will help evoke a beneficial change in the policies of Hanoi.

I am pleased to note that this project originated with the Jaycees in Virginia Beach, Va. This group of young men has worked long and hard for many months to have the project adopted on a wider basis. It is to their credit that this has happened.

The people of Virginia Beach, and of the Tidewater area of Virginia in general, are particularly close to the prisoner of war matter. There are many service-connected families in the area.

There are families with members who are suspected of being prisoners of war. There are wives living in this area who have made unsuccessful trips to Paris in attempts to gain information about their husbands.

For these reasons, I believe the Virginia Beach Jaycees are in a special position to know the anguish caused by Hanoi's action and the importance of making new efforts to assist our servicemen who are being held.

I am pleased to endorse Project Xuan Thuy, and I shall participate in it.

Mr. TOWER. Mr. President, before returning to the consideration of the pending business, I associate myself with the remarks made by the Senator from Michigan and the Senator from Virginia, and add my word of support for this project. I believe that I have probably spent more time in Southeast Asia with our combat troops than almost anyone else in Congress.

Mr. President, I have visited every one of our major combat units in Vietnam several times.

I can say without any reservation or qualification that this is the finest class of American fighting men this country has ever seen. They are not chips off the old block. They are an improvement. I include in that my own buddies from World War II.

I commend the Senator from Michigan for his endorsement of a very human project.

I think all of us have done everything we conceivably could do as Members of the Senate to try to get the release of the list of the prisoners of war from North Vietnam.

I think that now some citizen action is indicated. I hope that it will be successful.

I add my word of endorsement to that of the Senator from Michigan.

Mr. President, I ask unanimous consent that I might yield 2 minutes to the Senator from Oregon (Mr. HATFIELD) without losing my right to the floor.

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

The Senator from Oregon is recognized for 2 minutes.

Mr. HATFIELD. Mr. President, I commend the Senator from Michigan for his presentation this morning. I associate myself with his project.

I believe that all of us should consider the fact that we are engaged today in international conferences on many subjects—arms limitations, health, food, labor, and many other important issues.

I would like to see grow out of this kind of project a greater concern on the part of our Government to engage in international talks on the handling of prisoners of war, not only in reference to Vietnam and our prisoners there today, but also with respect to prisoners of war in general.

Second, I reemphasize the point that not only do we have servicemen who are captives or held as prisoners of war, but also we have missionaries who have been captured by the North Vietnamese and are being held as prisoners.

Mr. President, I hold world opinion to be of the utmost importance in today's times. That is one reason why I avidly support the United Nations. It creates a forum for the expression of opinions.

I think that as members of great countries, the United Nations recognizes the right of free speech. We should all engage in that effort and express our personal views on these matters.

I am proud to associate myself with the Senator from Michigan in his suggestion.

Mr. TOWER. Mr. President, I ask unanimous consent that I might yield 2 minutes to the distinguished Senator from Virginia without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Virginia is recognized.

Mr. BYRD of Virginia. Mr. President, I concur in the views expressed by the distinguished Senator from Michigan. I am delighted that he brought the project to the attention of the Senate. I am proud that the idea was conceived and the program first initiated by the Jaycees of the city of Virginia Beach, Va.

I do not know of anything more inhumane than the way the North Vietnamese have treated the American prisoners of war.

I think it is important that the American people rally behind those Americans who have been captured and are prisoners of the North Vietnamese.

We see a lot of demonstrations these days throughout our Nation. I think one of the finest demonstrations would be a demonstration against the inhumane treatment being accorded Americans by Hanoi.

I again commend the Senator from Michigan for inviting the attention of the Senate to this program.

I believe, as does he, that it is a worthwhile project and is one which should be supported by the American people.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

Mr. TOWER. Mr. President, on behalf of the distinguished Senator from Alabama (Mr. SPARKMAN) and myself, I call up our amendment No. 407 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to state the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be printed in the RECORD.

The amendment, ordered to be printed in the RECORD, reads as follows:

Page 387, strike out lines 17 through 25 and lines 1 through 7 on page 388 and insert in lieu thereof the following:

"(4) USED SECTION 1250 PROPERTY.—In the case of section 1250 property acquired after July 24, 1969, the original use of which does not commence with the taxpayer, the allowance for depreciation shall be determined in the following manner:

"(A) in the case of such section 1250 property which is residential rental housing (as defined in paragraph (2)(B)) having a remaining useful life on the date of acquisition of 30 years or more, the allowance for depreciation under this section shall be limited to an amount computed under any of the methods provided for in paragraph (1);

"(B) in the case of such section 1250 property which is residential rental housing (as defined in paragraph (2)(B)) having a remaining useful life on the date of acquisition of between 20 and 30 years, the allowance for depreciation under this section shall be limited to an amount computed under—

"(i) the straight line method,

"(ii) the declining balance method, using a rate not exceeding 125 percent of the rate which would have been used had the annual allowance been computed under the method described in clause (i), or

"(iii) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a) not including—

"(1) the sum-of-the-years digits methods, or

"(2) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(C) of this subsection; and

"(C) in the case of such section 1250 property which is either residential rental housing (as defined in paragraph (2)(B)) having a remaining useful life on the date of acquisition of less than 20 years, or which does not qualify as residential rental housing, the allowance for depreciation under this section shall be limited to an amount computed under—

"(i) the straight line method, or

"(ii) any other method determined by the Secretary or his delegate to result in a reasonable allowance under subsection (a), not including—

"(1) any declining balance method,

"(2) the sum-of-the-years digits method, or

"(3) any other method allowable solely by reason of the application of subsection (b)(4) or paragraph (1)(C) of this subsection."

Page 393, strike lines 1 through 7 and insert the following:

"(iii) in the case of residential rental housing (as defined in section 167 (j) (2) (B)) other than that covered by clauses (i) and (ii), or in the case of rehabilitation expenditures (as defined in section 167 (k) (3)) allowed with respect to section 1250 property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held 60 full months; and

"(iv) in the case of all other section 1250 property, 100 percent minus 1 percentage point for each full month the property was held after the date the property was held for 120 full months."

Page 393, line 8, strike out "Clauses (i), (ii), and (iii)" and insert in lieu thereof: "Clauses (i) and (ii)."

UNANIMOUS-CONSENT AGREEMENT

Mr. TOWER. Mr. President, I ask unanimous consent that the time on the pending amendment be limited to 1 hour and 30 minutes, 45 minutes to a side, the time for the proponents to be controlled by either the Senator from Alabama or me, and the time for the opponents to be controlled by the distinguished Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Does the Senator wish that the amendments be considered en bloc?

Mr. TOWER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

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

Mr. TOWER. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. TOWER. Mr. President, the amendment which the senior Senator from Alabama and I are jointly offering will lessen to some extent the serious impact the bill before you would have on real estate, without at the same time seriously affecting the projected overall revenue gain estimated by the Finance Committee. The amendment is directed at assuring that we are able to continue to build the housing which the Nation so desperately needs and that there is a reasonable incentive to continue the nonresidential building that our urban communities need to assure their continued vitality.

Our proposed amendment will carry one step further the action of the Finance Committee when it modified the provisions of the House-passed bill to restore to residential buildings the possibility of full capital gains treatment upon sale, if the property is held long enough. Under the House bill, any depreciation taken in excess of straight line would have been recaptured and taxed as ordinary income at the time of sale. This in effect negated the House decision to retain for newly constructed residential housing the availability of 200 percent accelerated deprication.

The Finance Committee recognized this inconsistency and provided that after a 10-year holding period, the owner of residential property could start reducing the amount of this excess which would be treated as ordinary income by 1 percent a month. This, Mr. President, I commend the committee, but I am concerned that its change is still not enough to encourage the construction of sorely needed rental housing. Our amendments would reduce this required 10-year holding period to 5 years. This is still substantially longer than the required 20-month holding period under present law.

For all other newly constructed real property, both the House bill and the Finance Committee version provide for full recapture of excess depreciation, no matter when the property is sold. Although there is an undoubtedly greater need to provide incentives for the construction of housing than there is for commercial and industrial property, there is also a significant need in our cities for the removal of old, rundown, and deteriorating structures and the construction of new office buildings, shopping areas, and other needed nonresidential facilities. In order to encourage the construction of these buildings, this amendment would permit the owner of a newly constructed nonresidential building to obtain full capital gains treatment if he held the building for 18 years and 4 months. This is the same holding period that the Finance Committee's bill would have permitted for residential property—now to be reduced under this amendment to 13 years, 4 months.

This, Mr. President, would restore some semblance of balance between the treatment of new residential buildings and the treatment of new nonresidential buildings. A new residential building would be entitled to up to 200 percent depreciation and there would be required a 5-year holding period before any capital gains treatment could be achieved. The owner of a nonresidential building would be entitled to up to 150 percent depreciation and would be required to hold that property for at least 10 years before any capital gains treatment would be available.

Following through on this concept of balance between residential and nonresidential property, and to provide for a greater incentive with respect to residential property, our amendment would also modify the Finance Committee's treatment of used residential property. Under the committee's bill, all used property would be relegated to straight line depreciation. This we do not believe is adequate to attract investment into used residential property, nor to assure the first owner of a new rental project that, when it comes time for him to sell his project, there will be an adequate market for that property. To accomplish these goals, these amendments will enable the second or later purchaser of residential property, which has a useful life of 30 years or more, to utilize 150 percent depreciation as is permitted under present law.

For residential property which has a useful life of 20–30 years, the owner would be entitled to up to 125-percent depreciation. For those older properties having a useful life of less than 20 years, many of which are kept standing only because of the availability of 150-percent depreciation under present law, the owner would be entitled only to straight-line depreciation.

This, Mr. President, assures that we will continue to give a reasonable incentive to residential housing by maintaining a significant difference in the incentive available to the investor in such housing as opposed to what is available to the investor in nonresidential property. This amendment, since it restores accelerated depreciation for residential property, also provides for the application of the same recapture rules as would be available for new residential property. Thus, after a 5-year holding period, any depreciation taken in excess of straight line would gradually shift from ordinary income treatment to capital gains treatment.

One further change would be made by this amendment. Both the House and the Finance Committee bills provide for a 5-year writeoff of rehabilitation expenditures on low-rent residential properties. However, to the extent that this accelerated writeoff exceeds what it could have been under the straight-line method, the excess would be fully recaptured and taxed as ordinary income at the time of sale. To be consistent with our other changes providing for a gradual decline of full recapture after a 5-year holding period, this proposal would make the same provisions applicable to these special rehabilitation expenditures.

Mr. President, what the senior Senator from Alabama and I are attempting to do is to avoid further crippling of the production of housing. Today, when we are faced with a severe shortage of long-term mortgage money available to finance housing, and the highest interest rates in over 100 years for the limited amount of money that is available, it would be catastrophic to hamper further the incentives that now exist to produce rental housing. Last year, Congress, in the Housing and Urban Development Act of 1968, set a 10-year national goal for the production of 26 million housing units. That is 2.6 million housing units per year. Yet, in this the first year, we will be lucky if we produce 1.4 million units, about 600,000 less than the 2 million units that we should be producing this year. Prospects for next year, when we should be producing over 2.2 million units, are for a level about the same as this year; this falls short of our goal by some 800,000 units.

Congress cannot in 1 year establish a housing goal and then turn around and thoroughly decimate the prospects of achieving that goal by removing one of the principal incentives to the production of housing. Since 1954, when the existing incentives for the producton of rental housing were added to our tax laws, rental housing has played an increasingly large role in total annual housing production. In 1954, only 8.7 percent of the starts were rental units. For the first 10 months of this year, they represent 44.5 percent. It is absolutely essential that this percentage not be severely cut back by our actions on this tax bill.

This amendment will assure that this will not occur, by retaining an appropriate degree of incentive for the production of housing, while at the same time removing present provisions which might be construed as encouraging the

speculator and the quick-turnover investor. These figures which I have alluded to are set out in detail in the excellent statement of the senior Senator from Alabama on December 4, at pages 37070–37074 of the RECORD. I commend this statement to every Member of this body.

Many Senators might be wondering what the reaction of the Treasury is to this amendment. I am extremely pleased to report that the Treasury Department has today informed me that they endorse these modifications to the Finance Committee's bill. I am also pleased to report that the Department of Housing and Urban Development fully endorses the pending amendment.

I congratulate the administration for its recognition of the need to avoid too severely cutting back on the present incentives for the provision of housing and new nonresidential properties. The moderate incentives provided for by this amendment will enable us to go forward in achieving the national housing goals while not negating the tax reform goals of this important bill. I urge all Senators to join us in this effort.

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

Mr. TOWER. I yield.

Mr. SPARKMAN. I am very glad the Senator has referred to some remarks I made on December 4 and also to the tables that were printed in the RECORD. I just refreshed my recollection by looking at those tables. I invite attention to the remarks and the tables, which are to be found on pages 37070 through 37074. I hope that Senators will look at those figures.

There never was a time when housing was more badly needed than at present, and there never was a time when housing was treated so roughly, so far as being able to build is concerned, as at present. I am sure the Senator will agree with me on that.

Mr. TOWER. I certainly do agree.

Of course, with mortgage rates at a century-high level, and having other investments which are more attractive than mortgage investments, makes it very difficult. We are really in a state of crisis insofar as home construction is concerned.

Mr. SPARKMAN. The funds are not available and, even if they were, at these rates many people would be deprived of the privilege of buying or building a home.

Mr. TOWER. The Senator is correct.

Mr. SPARKMAN. The Senator knows that I had two amendments relating to housing, and the remarks I made and the tables that both he and I cited relate to housing. Am I not correct in saying that the revised amendment Senator TOWER and I are now offering is primarily limited to residential housing.

Mr. TOWER. It is, indeed.

Mr. SPARKMAN. And that the amendment that is now being offered is a revision of the original amendment that was offered?

Mr. TOWER. It is a revision of amendments that were introduced by both the Senator from Alabama and the Senator from Texas.

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

Mr. TOWER. I yield myself as much time as is necessary.

Mr. SPARKMAN. I should like to ask one more question. I hope the chairman of the committee, the Senator from Louisiana (Mr. LONG), will listen to this question. Is it not true that the revised amendment was worked out with the collaboration of the Treasury Department and the Department of Housing and Urban Development?

Mr. TOWER. The Senator is absolutely correct. As a matter of fact, we might call this the "everybody-is-happy" amendment, because the homebuilders are happy, the real estate people are happy, the Treasury Department is happy, HUD is happy, the Senator from Alabama is happy, and the Senator from Texas is happy.

Mr. SPARKMAN. How about the Senator from Louisiana?

Mr. TOWER. I hope the Senator from Louisiana is ecstatic.

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

Mr. TOWER. I yield.

Mr. LONG. The Treasury Department agreed to this for fear they would get something worse if they did not. That is what it amounts to, as I see it.

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

Mr. TOWER. I yield.

Mr. CURTIS. I hold in my hand what appears to be a copy of a letter dated December 8, 1969, addressed to the distinguished Senator from Texas, signed by John S. Nolan, Deputy Assistant Secretary of the Treasury.

My question is this: Is the Senator's new, revised amendment in accord with this letter? Does it meet the conditions set forth therein?

Mr. TOWER. Yes. I should like to read the letter into the RECORD. This letter is addressed to the amendment now before the Senate, and this is the amendment that was worked out in collaboration with the Treasury Department.

Mr. CURTIS. Does the Senator's revised amendment, No. 407, from the standpoint of revenue, go beyond what Mr. Nolan has agreed to in this letter?

Mr. TOWER. It does not. As a matter of fact, the revenue impact is really relatively light.

I think we must consider that it is a very small price to pay in light of the fact that we are so far behind on our national housing goals, and we must preserve incentives for the construction of residential units in this country.

I shall read the letter from the Treasury Department into the RECORD:

DEAR SENATOR TOWER: You have requested a statement of the position of the Treasury Department on Amendments 297 and 298 to H.R. 13270, the Tax Reform Act of 1969, which you have proposed. In general, these amendments would change the provisions of the bill which allow only straight-line depreciation in the hands of a second owner (so-called "used" property) and which eliminate the phase-out of recapture of the excess of accelerated over straight-line depreciation for buildings and other real estate improvements. They would allow 150 percent declining balance depreciation if the life of the property exceeds 30 years, 125 percent if the life is between 20 and 30 years, and straight-line depreciation if the life is less than 20 years. The phase-out of recapture would be reinstituted to begin after the fifth year of ownership.

The Treasury Department will support these amendments if they are limited to housing, rather than being applicable to all real estate construction as they are in their present form. Treasury would also support a reinstatement of the phase-out of recapture beginning after the tenth year for real estate improvements other than housing if it were coupled with a limitation of Amendments 297 and 298 to housing.

It is my understanding from recent discussions with officials of the Department of Housing and Urban Development that HUD will also support the amendments in this revised form.

Sincerely yours,

JOHN S. NOLAN,
Deputy Assistant Secretary.

Mr. President, amendment No. 407, which is cosponsored by the distinguished Senator from Alabama and me, is precisely that which is referred to in this letter. This letter is an endorsement of amendment 407 on which the Treasury Department collaborated with us. The Treasury Department said the revenue measures, as presented, were not primarily to raise revenue but to give housing additional incentives. That is what we are seeking to do, and I think it is a most constructive amendment.

Mr. President, I ask unanimous consent at this time that the Senator from New Jersey (Mr. WILLIAMS), the Senator from New York (Mr. JAVITS), the Senator from Illinois (Mr. PERCY), and the Senator from New York (Mr. GOODELL) be added as cosponsors of the amendment.

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

Mr. LONG. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 10 minutes.

Mr. LONG. Mr. President, the Sparkman-Tower amendment is a major step backwards in the area of tax reform in the case of depreciation. On an overall basis, this amendment loses $90 million in the case of two provisions dealing with depreciation. The total revenue which would have been picked up from these two provisions in the absence of the Sparkman-Tower amendment would be $350 million. In other words, the Sparkman-Tower amendment in these two areas is knocking out over one-quarter of the tax reforms, a reduction of $90 million.

The first area in which the Sparkman-Tower amendment opens up a loophole is in the case of depreciation on used property. The House and the Senate Finance Committee required that straight line depreciation was to be required in the case of used property. The Sparkman-Tower amendment restores existing law in the case of used property with a remaining useful life of 30 years or more. It provides 125 percent depreciation for used property with a useful life of 20 to 30 years remaining.

This greatly complicates existing law by substituting three different categories of depreciation rates for used property, according to estimated remaining useful life. It is very difficult to determine estimated remaining useful life in the case of used property and, as a result, the

Sparkman-Tower amendment represents an administrative nightmare.

In addition, this amendment is a bonanza for real estate speculators in used property. Increasing depreciation helps the market for new housing only very indirectly, if at all. Actually, the only part of the market for new housing it helps is the person who is a quick in-and-outer, someone who wants to dispose of new property quickly. There is $50 million loss in this provision, and it does nothing but set back the cause of tax reform. It does not really help new housing at all.

The second feature of the Sparkman-Tower amendment deals with the recapture rules. Here the Sparkman-Tower amendment sets back the cause of reform very substantially. The total revenue pickup under the recapture provisions in the House and Senate bills is estimated at $100 million. The Sparkman-Tower amendment would junk $50 million of this or, in other words, would throw out nearly one-half of the reform. It does this by easing off the recapture rules both for housing and nonhousing. The amendment loses $30 million out of the $45 million which would be picked up under the recapture rules in the case of housing and $20 million of the $55 million which would be picked up in the case of nonhousing. There really is no excuse for these changes at all. The real estate tax shelter is one of the major loopholes in existing law. The House and the Senate Finance Committee dealt with this problem only very lightly. Now the real estate industry would destroy most of that little amount in the area of recapture which the bills do accomplish.

I am well aware of the fact that the sponsors of this amendment have a letter from the Treasury Department indicating that the Treasury goes along with this amendment. We all know how these things happen. The amendment which the Senators have introduced now destroys less of the House and Senate Finance Committee bills than did an earlier amendment which they introduced. It seems obvious to me that the Treasury Department has merely endorsed this amendment to keep the sponsors from pushing an amendment which would go still further and lose still more of the reform in the committee bill.

I call special attention to the fact that this amendment eases off the recapture rules for other than housing. In fact it loses $20 million out of the total of $55 million picked up in this area. I can see no way in which this would help the housing market. The only thing it could possibly do is to draw construction workers from housing projects to nonhousing projects and in this way slow down the development of new housing.

I urge the rejection of this amendment.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I think that we sometimes get the idea we have to institute tax reform just for the sake of reform. Certainly, there is an incentive inherent in this proposal which will result in some people making money; but since when is it evil for people to make money? I assume this is still a capitalist country.

I think we must recognize the fact that the Government alone has not the resources to cure all the social and economic ills which exist.

One of those ills is the fact that many of our citizens—millions of them—are inadequately housed in substandard housing. Only the private sector of the economy can remedy this situation and for this sector of the economy to do so, we must give them an incentive. People are not going to invest money that does not produce a return.

I think that if people, properly motivated, make a little money off the fact that they have resolved a social or economic ill, so much the better; that is the only way problems are going to be solved.

I cannot see that just for the sake of reform, just for the sake of punishing people who are in the real estate or construction business we are going to destroy the incentive necessary to try to achieve our national housing goal; this goal will average, over the next 10 years, 2.6 million units per year. We are falling short in our first 2 years. We are falling far short. We are not going to achieve much more than half our goal over the next 2 years.

As was pointed out by the distinguished Senator from Alabama, mortgage money is tight; interest rates are high; and it is difficult to get capital into homebuilding.

I do not think that for the sake of perhaps $80 million we ought to destroy the incentive for more construction of residential units. Already the real estate people and the construction people will pay more than $1 billion in additional taxes as a result of this bill. We are just relieving them of about $80 million of it. They are still paying the big bite in this tax bill, more than any other industry, more than any other business, and more than any other trade or profession. Real estate is carrying the load. This, to me, is not a very good time for them to have to carry the load.

Mr. President, this proposal calls for $80 million to $100 million, but think how much more in the way of Government resources it is going to cost us if we cannot stimulate the private segment of the economy to build the residential units we need in this country.

Some allusion has been made to the fact that commercial property would get a little relief. Mr. President, you cannot rehabilitate the poor cities in this country unless you provide both adequate residential and commercial construction. Where people live they need certain commercial facilities. They need retail outlets, and they need goods and services. So we have to have commercial building.

The big relief in the amendment proposed by the Senator from Alabama and me is that there will be a stimulus for the construction of residential units of all types, single-family and multifamily units of all types.

That is what is so desperately needed in this land today. I certainly hope that the Senate will, in its wisdom, adopt this highly constructive amendment, designed to try to help us achieve the goal of 26 million residential units in 10 years. We will never resolve the problem of the core cities until people are adequately housed.

We have passed housing bill after housing bill aimed at promoting construction of low-income housing and in promoting home ownership for low-income families.

Think what a great stabilizing influence that would be on our society, if most of the low income families in this country could own their own homes.

That is what we are aiming for.

I know that sometimes I am regarded as some kind of mossback reactionary, but this is one area in which I am a liberal since I believe that the key to a stable society and to a prosperous society, the key to self-respect and pride in people, is the ability to own our own homes.

That is the thrust of the amendment being offered by the Senator from Alabama and me.

Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time consumed by the call not to be charged to either side.

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

Mr. TOWER. 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. TOWER. 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. McCARTHY. Mr. President, will the Senator from Texas yield?

Mr. TOWER. Mr. President, I yield such time to the Senator from Minnesota (Mr. McCARTHY) as he may deem necessary.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. McCARTHY. Mr. President, on January 18, 1962, before the Joint Committee on Internal Revenue, former Secretary of the Treasury Douglas Dillon, in connection with legislation recommended by the Treasury at that time, stated:

> The existing depreciation guidelines are outmoded and in need of revision.

It is my understanding that in order to give more realistic recognition of obsolescence and technological trends, the Internal Revenue Service adopted Rev. Proc. 62–21 on July 17, 1962, to provide a comprehensive and basic reform in guideline lives for depreciation of a great variety of categories of personal property; however, the section relating to depreciation of buildings provided no basic reform and the revision at that time was limited to a listing of composite lives only of limited types of buildings somewhat less advantageous than those contained in bulletin "F."

Mr. President, in view of the material restrictions contained in this bill on the methods of depreciation and the provision relating to recapture of depreciation, the Treasury Department should reduce the guideline lives of buildings and their components in keeping with the statutory requirement that a "rea-

sonable allowance" for depreciation be allowed including technical and economic obsolescence of the various types of buildings and their components.

Mr. President, despite the Nation's requirement for a drastic increase in housing for low- and middle-income Americans in the decade ahead, the Senate Commitee on Finance has reported a bill which runs counter to this goal. Under proposed legislation, all purchasers of section 1250 used property, are limited to the straight line method of depreciation. Current depreciation schedules are retained for certain low- and moderate-income housing projects, while all other types of residential housing are taxed with full recapture of accelerated depreciation over the straight line method for the first 10 years, with capital gains treatment after 18 years, 4 months. Nonresidential, commercial sales are to be taxed on all depreciation taken over the straight line method.

While recognizing that abuse of the depreciation schedules has occurred, I feel that the proposed legislation will seriously impair our national responsibility to provide decent housing, a decent environment, and decent neighborhoods for America's expanding urban and rural population. At least one-sixth of our population now lives under less than adequate conditions. We must move quickly to provide them with housing and supportive industries so that they may improve their lives and that of the community. The social cost of delay in the related areas of industrialization and unemployment, is an exorbitant and unwarranted expense. The time has come to provide decent housing for all Americans.

The main argument advanced in favor of the provisions affecting depreciation deductions for sellers and owners of revenue producing properties is the purported increase of Federal revenues by $1 billion. The Treasury estimate of the billion dollar per year recoupment by 1979 assumes that the current rate of investment activity in housing and related commercial construction will remain about the same. In light of rising interest rates and higher labor and construction costs, the optimism of the Treasury Department is suspect. It is quite possible that the purported increase in revenues will be offset by additional Federal expenditures in housing. By removing features attractive to investment, the Federal Government will, in the long run, have to assume many of the burdens of construction and investment now borne by the private sector of the economy.

Leon Keyserling, former Chairman, Council of Economic Advisers, in his testimony on September 26 before the Finance Committee, correctly identified the problem sought to be corrected by the tax bill when he stated:

> Equity in a narrow sense depends upon having allowable depreciation deductions equal the actual decline in the economic value of a property, and determining the actual decline is a very difficult question of fact.

Determinative data on this question is difficult to obtain. It is possible that the decline in economic value actually does occur at the rate of accelerated depreciation. The tax treatment of new housing investment, is, as Mr. Keyserling notes:

> Double barrelled because in two ways it makes the tax treatment of investment in new housing much less favorable than the tax treatment of other investments. First, any time this investor wants to sell his building, the price will be depressed because the buyer cannot take advantage of even 150 percent declining balance depreciation. Second, if the original investor does sell anyway, the Bill requires that any capital gains, up to the excess of accelerated over straight line depreciation, be taxed as ordinary income. This means that only the postponement of ordinary taxable income, but never its conversion to capital gains, will be possible under the new law. This change might be conceivably desirable if it could be shown conclusively that accelerated depreciation as to housing and other real estate investment is always excessive, and that true economic income was being converted into capital gains . . . Further, it is probable in many cases that the gain being "recaptured" was never ordinary income in the first place, but rather a wise speculation on the value of a particular capital asset. Some tightening of the tax treatment of capital gains is desirable, and this conclusion might seem to contradict what I am saying here about recapture. However, it is important to note that the recapture provisions of the current Bill apply only to investments in housing and other real estate, not to capital gains generally.
>
> I find it difficult to justify these provisions, at a time when housing and other real estate investment should be stimulated in relation to other kinds of investment.

I ask unanimous consent that extracts from Mr. Keyserling's testimony be printed in the RECORD at the conclusion of my remarks.

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

> The tax effect of accelerated depreciation is to postpone ordinary taxable income from the early years of a project's life, when depreciation deductions are higher than they would be otherwise, to the later years, when these deductions are lower. (Immediate deduction of interest and other expenses, in years when reported income from the investment project is not large enough to cover them, has a similar effect of postponing taxable income.) Postponing taxable income of course postpones taxes, so the effect of accelerated depreciation is an interest-free loan as against straight-line depreciation. Accelerated depreciation is thus more favorable than straight-line depreciation.
>
> But this does not mean that accelerated depreciation is an inequitable tax concession, even in the narrow sense where equity depends solely upon having taxable income equal currently realized economic income. Equity in this narrow sense depends upon having allowable depreciation deductions equal the actual decline in the economic value of a property, and determining the actual decline is a very difficult question of fact.
>
> Assuming for the moment (although I seriously challenge) that some of those who have studied the problem are right in their finding that the actual economic or value depreciation of office buildings, and even of some other real property, is less rapid than straight-line, the primary consequence of allowing accelerated depreciation (under this assumption or finding) is that the postponed ordinary taxable income can be taken at a later date as a capital gain, taxed to favorable rates, instead of as taxable future ordinary income. This is done by selling the property, at some later date, at a price which capitalizes the ordinary income expected to accrue after that date. The current Bill is apparently designed to correct this alleged inequity (in the narrow sense of equity) of the present tax laws. But if the finding is incorrect (which I think to be the case), if the decline in economic value actually does occur at the rate of accelerated depreciation, then the capitalized value of postponed ordinary income only offsets what would otherwise appear on an investor's tax return as a capital loss.
>
> In any event, the assumptions and findings which I deem to be so highly questionable (and certainly not supported by adequate empirical testing), have no direct bearing upon the various provisions of the current Bill which effect housing. The most important of the provisions affecting housing are the elimination of accelerated depreciation for purchasers of used buildings, and the recapture provision (sec. 521). These provisions deny the housing investor most of the advantages of the double declining balance method for depreciating new buildings, even though those who have made the findings with which I disagree do not purport to show that accelerated depreciation is inequitably rapid for housing.
>
> The effect of these two provisions on an investor in *new* housing is double-barrelled, because in two ways it makes the tax treatment of investment in new housing much less favorable than the tax treatment of other investments. First, any time this investor wants to sell his building, the price will be depressed because the buyer cannot take advantage of even 150 percent declining balance depreciation. Second, if the original investor does sell anyway, the Bill requires that any capital gains, up to the excess of accelerated over straight-line depreciation, be taxed as ordinary income. This means that only the postponement of ordinary taxable income, but never its conversion to capital gains, will be possible under the new law. This change might conceivably be desirable if it could be shown conclusively that accelerated depreciation as to housing and other real estate investment is always excessive, and that true economic income were being converted into capital gains. But to my knowledge there has been no such showing as to housing, nor do I believe that such showing can be made. Further, it is probable in many cases that the gain being "recaptured" was never ordinary income in the first place, but rather a wise speculation on the value of a particular capital asset.
>
> I have stated earlier in my testimony that some tightening of the tax treatment of capital gains is desirable, and this conclusion might seem to contradict what I am saying here about recapture. However, it is important to note that the recapture provisions of the current Bill apply only to investments in housing and other real estate, not to capital gains generally. This is why I find these recapture provisions so unwarranted, at a time when housing and other real estate investment should be stimulated relative to other kinds of investment, not depressed.
>
> The combined effect of recapture and of straight-line depreciation for all acquisitions of used buildings is to make investment in residential construction much less liquid than it is presently. Since housing generally has such a long life, any decrease in liquidity is apt to depress severely investment in housing, and this is patently undesirable. It is recognized that rapid turnover is a problem, and that present phasing out of recapture may be viewed by some as inadequate to prevent unduly rapid turnover. In that case, full recapture of excess depreciation could be extended to five years, with the recaptured percentage of the excess depreciation declining by one percent per month for 100 months thereafter.
>
> Recapture and straight-line depreciation for used buildings are not the only provisions adverse to housing. The limitation on tax preferences (sec. 301), the allocation of de-

duction (sec. 302), and the limitation on interest deductions (sec. 221) also affect housing (and other real estate investment) adversely. LTP prevents investors in housing from taking the full benefit of accelerated depreciation, where the amounts involved (when combined with any other tax preferences the taxpayer may have) exceed 50 percent of economic income. ADR requires that investors in housing (and other real estate) allocate some of their deductions to the excess of accelerated depreciation over straight-line depreciation, leaving lesser amounts to be deducted from income subject to taxation, and this too reduces the benefits that can be obtained from accelerated depreciation. Although these provisions would make investment in housing less attractive to most investors, I believe, as I have explained, that they are the proper way to prevent gross abuse of the tax stimuli favoring investment in housing. However, I do not agree with the Treasury that interest and taxes paid during construction of real property improvements should be included at this time as a tax preference. My reason is that the use of this practice has received much less scrutiny than the use of accelerated depreciation, and it is not clear at this time that treatment of these interest and tax costs as a preference item is justified. It should also be noted that the Treasury proposal discriminates against housing and other real property, in that other kinds of property are not subject to similar tax treatment.

Although I do favor LTP and ADR, as I have explained, I want to emphasize that their application to housing (and other real estate investment) will have an adverse effect. For this reason it is even more important that the other provisions of the Bill damaging to housing not be adopted.

RETROACTIVE FEATURES OF THE BILL, AND SOME OTHER TECHNICAL PROBLEMS

Before leaving the subject of housing, I should like to point out some retroactive features of the Bill in its current form, and also comment on one other technical problem.

(1) The following sections of the Bill apply retroactively, in that they deny certain tax concessions on commitments made before the Bill was reported. This occurs because the income or deduction accrues after the Bill is effective, and thus is covered by its terms.

(a) Sec. 221, limitation on interest deduction: The problem here is long-term net leases entered into before the Bill was reported. Interest deductions by the lessor may be limited, even though the investor has a long-term commitment. Also, the lessor is not making unreasonably high after-tax returns over the life of the project—the effect of tax concessions, at least in significant part, is passed on to the lessee in the form of lower rental prices than would otherwise obtain:

(b) Sec. 301 and 302, LTP and allocation of deductions: Accelerated depreciation of real property is a tax preference for purposes of LTP and allocation of deductions. Even where a transaction has been committed before the Bill was reported, the transactor loses some benefit from accelerated depreciation. The allocation of deductions is most serious, because it hurts all amounts of accelerated depreciation. The LTP only hurts if the taxpayer has excess depreciation amounts greater than his other income;

(c) Sec. 521, recapture of accelerated depreciation: Persons who invested in real estate before the Bill was reported may have done so only in expectation of converting some income to future capital gains, and they have offered lower rentals in anticipation of this tax advantage. The rental commitments continue, but the tax advantage is gone.

(2) The allocation of deductions to untaxed excess depreciation would not operate fairly: A taxpayer taking accelerated depreciation only postpones taxable income (and perhaps converts later to capital gains, but not as sec. 521 is now written). However, deductions disallowed are lost forever. Therefore, deductions disallowed on account of excess real estate depreciation should be added back to basis cost for purposes of later determining capital gain. (This treatment would correspond to the treatment of that part of excess depreciation which is itself disallowed under LTP).

PROVISIONS OF THE BILL DIRECTLY AFFECTING NONRESIDENTIAL CONSTRUCTION, AND THEIR EFFECTS

In addition to all the provisions adversely affecting both housing and other real estate investment, there is one very important provision in the current Bill which applies only to nonresidential construction. This provision, in sec. 521, would limit the use of accelerated depreciation by the original owner of new non-residential structures to the 150 percent declining balance method, instead of the presently allowed double declining balance method. The 150 percent method is substantially slower than the 200 percent (double declining balance) method, and it therefore reduces very substantially the incentives for investment in non-residential construction.

The reason given for treating housing and nonresidential construction differently is that "Congress [has] expressed its desire to stimulate construction in low- and middle-income housing to eliminate the shortage in this area" (Ways and Means Report No. 91-413, Part 1, p. 166). However, as I have developed in detail earlier in my testimony, it is entirely unrealistic to posit that better housing in a better environment can be achieved by stimulating residential construction alone. Proper community development requires the blending and integration of housing, appurtenant community facilities, and commercial structures. Without the latter, developers may be unable to open up new areas for housing, because no one wants to live where there are no stores, amusements, or other attractions. This is especially true of low-income persons, because they are known to be much less mobile than persons with higher incomes (the two-car family can live where it pleases; the one-car or no-car family cannot).

Within the cities, it is especially desirable to encourage the development of commercial structures, because such buildings increase the tax base and provide the cities with sorely needed revenues. These revenues are obtained without placing additional tax burdens on urban residents, and they may thus help to stem or reverse the flow of middle-income families away from the cities, allowing a better mixture of income groups in all residential loci.

It should be clear, therefore, that there is no sound basis for limiting the tax advantages of the double declining balance method only to new housing, because proper and full development of the nation's housing requires a correlative stimulus for nonresidential construction.

The need for favorable tax treatment of new nonresidential construction can also be developed from a more general approach, comparing commercial construction with other sectors of the economy (commercial construction is the largest component of nonresidential, nonfarm buildings, and it is the one on which the Bill in its current form concentrates). As my earlier discussion indicates (see again Charts 22 and 23), investment in both housing and commercial structures has been growing much less rapidly than other forms of investment, although sound national economic and social policy requires that both of these sectors grow much more rapidly than they have been growing, and also more rapidly than GNP and other major components thereof.

The deficiency in the pace of housing investment is clearly much greater than in the pace of investment in commercial structures, but that is no reason for removing tax advantages from the latter. The present tax advantages for commercial construction are inadequate in terms of our national needs, and they should be strengthened rather than weakened. In this connection, it should be observed that the current Bill places as great an additional burden on investment in nonresidential real estate as it does on investment in producers' durables. The repeal of the investment tax credit, the only provision directly affecting investment in producer durables, is expected to yield 3.3 billion dollars in 1979, when fully effective (projections based on current volume of activity—see H.R. Report 91-413, Pt. 1, p. 16). This is only 5.6 percent of the 1968 investment in this category. In contrast the reduction in accelerated depreciation on new nonresidential buildings alone is expected to yield 960 million dollars, or 5.1 percent of the 1968 investment in such buildings, and the other tax provisions affecting real estate will certainly increase substantially the tax effect on new construction in this field, although the Committee Report does not give revenue estimates in sufficient detail to determine these effects exactly.

The immediately preceding discourse implicity assumes that there is merit in the proposition that commercial buildings (if not housing) depreciate (in an economic or value sense) less rapidly that straight line. For reasons already stated, this proposition has nowhere to my knowledge been vindicated, nor do I agree with it. A recent study by Taubman and Rasche,[1] made available to the U.S. Treasury may well have attained some influence in directions contrary to those I recommend. My analysis of this study, showing its shortcomings, is attached as Appendix Two.

The foregoing indicates that the current tax treatment of all real estate investment, both housing and nonresidential, is desirable on the general grounds of public economic policy. However, the current Bill is directed more narrowly to the question of tax equity, and it is important that the tax equity arguments be faced on their own grounds, even though I feel that these grounds are not the best grounds for resolving the basic issues of our national needs for accelerated investment in these sectors.

EQUITABLE CONSIDERATIONS

It must be emphasized that tax concessions to the real estate industry do not "enrich" real estate investors generally, as shown on my earlier Chart 27. Thus, the current tax concessions available to real estate enable lower rents than would otherwise obtain, and stimulate construction, but they do not provide real estate investors generally with inordinate gains. This indicates that the equity issue may be somewhat specious: investors in real estate generally are no better off after paying their (allegedly) reduced taxes than other investors paying (allegedly) higher taxes.

The question of equity is thus transformed into a question of resource allocation—is it proper that real estate continue to receive the economic stimulus they now receive from current tax provisions? I feel that the materials I have incorporated in this testimony provide an affirmative answer to this question.

ADDITIONAL CONSIDERATIONS

The increasing burden of State and local property taxes weighs most heavily upon resi-

[1] P. Taubman and R. H. Rasche, "Economic and Tax Depreciation of Office Buildings" (University of Pennsylvania, Wharton School of Finance and Commerce, Department of Economics, Discussion Paper No. 111, January 1969).

dential and commercial construction, and indeed upon the owners and renters of such properties, including average business people and, most importantly, families of low and lower-middle income. Federal tax concessions for real estate thus serve in part to redress the balance, not disturb it (and they are also a way for the Federal Government to ease the plight of the States and localities).

Second, as already discussed, high interest rates are more burdensome to housing and other aspects of real estate investment than to other industries, because these endeavors are much more dependent upon external financing (rather than retained earnings) and upon debt financing (see again Chart 27). These high interest rates, however, are not necessarily a true measure of either the scarcity or the value of capital for investment, but rather they are contrived by Government policy. It is therefore extremely appropriate that tax concessions to real estate be used to offset some of the distortions caused by artificially high interest rates.

Third, most other forms of investment will retain the advantages of shortened guideline lives and accelerated depreciation, and similar treatment of real estate is again a balancing force rather than a disturbing one.

Consideration of these three factors is an application of what is called the theory of second-best. As a general principle, subsidy for one industry leads to inefficient allocation of resources; but this principle applies only when there are no taxes or subsidies for any other industries. Viewed against the background of an established tax structure, containing many different types of taxes imposed by many different jurisdictions, the simple rule that subsidies cause inefficiency can no longer be applied (if it has any large validity in principle). Given the present tax structure, it seems clear that continued Federal income tax concessions for real estate are appropriate. Of course, major changes in other parts of the structure might be desirable, and it might then become desirable also to modify the tax treatment of housing and other aspects of real estate investment, but that is not a controlling factor at this time.

Another broad class of reasons for applying only with caution the general rule that subsidies, including those in the form of tax concessions, are inefficient is the incidence of external economies and diseconomies. External factors exist which cause the private signals of market prices to register only partially and inaccurately the values of everyone in the economy. Where this happens, collective action to redirect market incentives is appropriate, and special concessions become necessary. The whole field of housing, urban development, and land use is a classic example of external effects, and there are many economists who argue that such concessions for real estate development are in fact necessary for economic efficiency, not inimical to it.

Finally, in a period of inflation, the Federal tax structure (and income taxes generally) imposes an especially heavy burden on investors holding assets with relatively long lives. The problem is the tax treatment of depreciation allowances, which supposedly enable a taxpayer, in determining his income, to deduct from his revenues the amounts that are only a recovery of his initial capital costs. Taxation is based upon the principle that a dollar is a dollar, whenever it is received or paid, and the owner of property can only obtain depreciation allowances equal to his original dollar cost, even though some of the depreciation is taken many years after the cost was incurred. This means that, in a period of general inflation, the depreciation dollars deducted from revenue, which are supposed to constitute recovery of cost, are worth less (in purchasing power) than those used to construct or acquire the property. The result is that the taxpayer must pay income taxes on funds whose receipt is necessary just to maintain the value (in goods) of his investment (see Table 1).

The first column of the table shows what would happen in some arbitrary future year *t*, on the assumption that there is no change in the general price level. Revenues, costs and taxes are listed, and in this hypothetical example there is a cash flow (depreciation plus income after tax) equal to 15 percent of the assumed value of the property in that year. This cash flow represents both the recovery of the investor's cost and his income from the investment.

The second column of the table shows what would happen on the assumption that the price level in year *t* were double that in year zero, owing to inflation during the intervening period. Revenues, current costs, and the current value of the property are double what they would be with the price index at 100. Allowable depreciation, however, is not doubled, so that taxable income and thus income taxes are more than doubled (in this example, income tax is tripled). The result is that cash flow is less than doubled, and cash flow is therefore a smaller percentage of the property's value than it would be in the absence of inflation.

The third column shows how a doubling of the deprecation allowance (in proportion to the amount of inflation) would exactly compensate for the effect of inflation, reducing income taxes to twice the amount that would be collected in the absence of inflation, and thus restoring cash flow to the same percentage of current value as would be obtained if no inflation had occurred.

I do not contend that depreciation, for tax purposes, be calculated on a basis other than recovery in current dollars of initial cost—any change would make administration of the tax laws very much more difficult. However, it should be observed that office buildings have longer lives than most other assets, so the effects described here have a greater impact on them than on, say, investment in producer durables. For this reason one should perhaps make other adjustments in the handling of depreciation for long-lived assets, and shorter guideline lives plus accelerated depreciation seem appropriate.

TABLE 1.—EFFECT OF INFLATION ON INCOME AND TAXATION OF OWNERS OF DEPRECIABLE PROPERTY

Year zero:			
Price index	100		
Initial cost of property	$500,000		
Year t:			
Assumed price level	100	200	300
Revenues	$180,000	$360,000	
Operating and maintenance cost	120,000	240,000	
Gross return to capital	60,000	120,000	$120,000
Depreciation allowed	30,000	30,000	60,000
Taxable income	30,000	90,000	60,000
Income tax	15,000	45,000	30,000
Income after tax	15,000	45,000	30,000
Cash flow after tax	45,000	75,000	90,000
Current value of property	300,000	600,000	600,000
Cash flow as percentage of current value	15.0	12.5	15.0

Note: All data are artificially constructed for this example.

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time consumed being charged to either side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

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

Who yields time?

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I yield such time as he requires to the Senator from Delaware (Mr. WILLIAMS).

Mr. WILLIAMS of Delaware. Mr. President, I hope the pending amendment will not be agreed to. The bill, as it came from the House, would have provided $375 million in additional revenue by plugging various real estate loopholes. The Senate Finance Committee action reduced that amount somewhat, and, the bill as reported by the committee, would provide $350 million in additional revenues.

This amendment loses $90 million of that revenue—over one-fourth of it—in a further erosion of the efforts to close what has been recognized by many as one of the most glaring loopholes. We still do not have a number of them closed.

I should like to cite an example of just how this real estate gimmick could work, and to show that we not only have not done too much, but in fact have failed to do enough. This was a specific case where an individual borrowed the money from a Government agency—it was of these 100 percent financed, so-called nonprofit operations—and built an apartment project down in Florida. The total cost was around $10.5 million. He had less than $25,000 of his own money involved, because it was almost 100 per cent financed. The project ultimately went broke, and so there was never anything paid as far as the Government was concerned. But during the year or two while the project was going broke, or being taken over by the Government, he took depreciation on this property, and in addition to that, being under the accrual accounting method, he accrued the interest which he should have paid, but did in fact pay, to the Government on the borrowed money. These deductions gave him a sizable tax loss each year.

Then this operator consolidated the corporation results with his other corporation for tax purposes. This meant that by filing consolidated returns he brought the losses over to his major company, where he did have a big income, and was able to write off a substantial part of those losses against this income. So he was actually writing off depreciation on buildings built not with any of his money but with the U.S. Government's money, and writing off an allowance for interest on money borrowed from the U.S. Government, where neither the interest nor any part of the principal was paid, and he got a tax benefit—a tax reduction—from all that.

This is just one example of how a person can work this real estate gimmick and make a tax profit out of a deal where he does not put up one dime of his own money.

We have not closed that loophole in this bill. A person can still go into these Government financed projects without

putting up his own money. I failed in my effort to close this loophole.

In fact, there is a provision of the bill which allows special treatment for low-cost housing projects. Under this provision, the investor can sell the property, and he does not have to pay capital gains on the profit; he then can take all of the proceeds, reinvest it in similar property, and keep pyramiding it over and over, not only not paying capital gains, but paying no taxes whatever.

I wonder how much more we want to do for this industry. I think the least we can do is stand by what little corrections the committee has made, which is a very small part of what is needed to really close this loophole. If the Senate, wants to correct some of the inequities and loopholes, I hope the committee bill will be supported and this amendment will be rejected. I personally would prefer going in the opposite direction. I tried to do that in the committee, but lost. Certainly the very least we can do now is to hold the very small attempt we have succeeded in making to close what we have recognized as one of the glaring loopholes in our tax law.

The approval of this amendment will lose $90 million in revenue.

Mr. TOWER. Mr. President, I do not think passing this amendment would give rise to speculation. You have to hold residential property for over 13 years and commercial property for over 18 years to get full capital gains treatment.

The goal of 2.6 million units a year will require about $52 billion in annual investment. What is a tax loss of $80 to $100 million a year when compared with the importance of investment in new housing? We need to attract private investors into rental housing; otherwise, the Federal Government becomes more and more involved. This will cost us more over the long pull. The Federal commitment now for rental housing is nearly $1.5 billion. That amount will drastically increase unless more private investment is made in rental housing.

Mr. PERCY. Mr. President, I am pleased to cosponsor the Tower-Sparkman amendment providing for accelerated depreciation on residential construction.

In 1934, Congress called for the construction of a "safe, decent, sanitary home for every American family." We have failed them ever since. In 1937, it enacted legislation to do away with slums and blight. These conditions still exist. In 1949, Congress prescribed for the construction of 810,000 public housing units. Thirty-five years later, only 700,000 units have beeen built.

In 1968, Congress rededicated itself to meeting our peoples' need for adequate housing by prescribing a national housing goal calling for a "decent home and a suitable living environment for every American family." Pursuant to this, Congress resolved that 26 million housing units had to be built or rehabilitated within the next 10 years, 6 million of which are intended for low- and moderate-income families.

Mr. President, our society can no longer permit the record of broken promises to continue. We cannot hope to promote sound health among our citizens if they are ill-housed. We cannot expect to instill a desire to obtain a sound education if one knows only the hardknocks of a slum environment. We cannot contemplate reductions in crime, delinquency, and drug abuse if people are forced to live under ghetto conditions where substandard housing is the rule. The time has come for us to recognize that housing must be considered as a basic need and requirement of life in the same manner as health, food, education, and a livable income.

There are those who argue that we are not going to be able to meet our housing promises of 1968; that we must face the facts of economic life. I disagree, the facts of life are that the lives of people are being seriously adversely affected as a result of inadequate housing.

We cannot fail our citizens again. They no longer will tolerate failure.

More than 6 million homes and apartments in the United States are delapidated or deteriorating today. One quarter of all U.S. housing is now classed as substandard. The depressed condition of the housing construction market these past 4 or 5 years has meant that we have been unable to contain this rate of deterioration. Whereas, we should be building or rehabilitating 2 to 2½ million homes each year, we have been limping along at a 1.3 to 1.5 million rate. Instead of advancing toward our goal, we are falling farther behind each year.

Generally, it is the old, the ill, the minorities, the large families, and the poor who have been unable to locate decent housing. Today, however, as supply falls even farther behind demand, citizens in all walks of life are being harmed. In one sense this is bad. Realistically, however, a universal unrest over housing conditions may now enable us to commit housing to the priority status it deserves. Up to now, housing has been sacrificed as a leading scapegoat to eccnomic pressures or other claimed needs. We must resolve to no longer permit this.

Under the present law, owners of residential property are entitled to accelerated depreciation against the early years of the property's life. This not only encourages a greater incentive for construction, but provides the release of cash flows which may be directed to new construction. Owners of used buildings also are entitled to reasonable depreciation rates which, if properly administered, can have the effect of encouraging new construction.

The proposed legislation reported out of the Senate Finance Committee would have reduced this accelerated depreciation incentive on existing structures. In addition, the committee proposal would have altered the recapture provisions in all structures, except moderate-income housing projects, so as to impose higher tax burdens on those investing in real estate.

These provisions could seriously impede residential construction. While preferences must be denied those who take unfair advantage of the tax laws on real estate and while our laws must not encourage slum development, we must not at the same time discourage construction—especially residential structures.

Investment is based upon yield and risk. Depreciation cushions these conditions. If we jeopardize a fair recovery through an adequate depreciation and the market for real estate thereby begins to dry up, this not only adversely affects the used housing market, but depresses new construction as well. In addition, lower yields and higher risks due to inadequate depreciation will force housing owners to raise rents or other costs and may also cause the deterioration of buildings. Both cases are harmful to the construction of adequate supplies of new housing or the rehabilitation of existing housing.

Existing changes in the tax laws relating to real estate will provide increased revenue exceeding $700 million in taxes over the next 10 years. There are estimates that the present committee provision may produce additional millions of dollars in revenue. The figures upon which this is based are questionable. Even if accurate, however, the gain cannot equal the potential loss to new or rehabilitated housing so vitally needed to meet our housing goals.

The Treasury Department and the Department of Housing and Urban Development both support this amendment. Its adoption should help assist us as one step—at least we can take today—to overcome the serious housing crisis now facing us.

Mr. TOWER. I am prepared to yield back my time.

Mr. LONG. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CANNON in the chair). All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas (Mr. TOWER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), 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) and the Senator from Missouri (Mr. SYMINGTON) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. PROUTY) is detained on official business.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Vermont (Mr. PROUTY) would each vote "yea."

The result was announced—yeas 69, nays 24, as follows:

[No. 201 Leg.]

YEAS—69

Allen	Bible	Byrd, W. Va.
Allott	Boggs	Cannon
Baker	Brooke	Church
Bayh	Burdick	Cook
Bellmon	Byrd, Va.	Cooper

Cotton	Jackson	Percy
Curtis	Javits	Proxmire
Dodd	Jordan, N.C.	Randolph
Dole	Jordan, Idaho	Schweiker
Dominick	Magnuson	Scott
Eastland	Mansfield	Smith, Maine
Ellender	Mathias	Smith, Ill.
Fannin	McCarthy	Sparkman
Fong	McClellan	Spong
Goodell	McGovern	Stennis
Gravel	McIntyre	Stevens
Griffin	Miller	Talmadge
Gurney	Mondale	Thurmond
Hansen	Montoya	Tower
Hartke	Murphy	Tydings
Hatfield	Packwood	Williams, N.J.
Hollings	Pastore	Yarborough
Hruska	Pearson	Young, N. Dak.

NAYS—24

Aiken	Hart	Moss
Bennett	Holland	Muskie
Case	Hughes	Nelson
Cranston	Inouye	Pell
Eagleton	Kennedy	Ribicoff
Ervin	Long	Saxbe
Gore	McGee	Williams, Del.
Harris	Metcalf	Young, Ohio

NOT VOTING—7

Anderson	Mundt	Symington
Fulbright	Prouty	
Goldwater	Russell	

So the Tower-Sparkman amendment (No. 407) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

DIVESTITURE OF CERTAIN STOCK

Mr. ERVIN. Mr. President, I call up my amendment, which I have just sent to the desk, and ask that it be stated.

The PRESIDING OFFICER (Mr. HUGHES in the chair). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. ERVIN. 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 13 after line 14, insert the following:

"(D) Section 4943 shall not apply to require the divestiture of the stock of an incorporated business enterprise acquired by a private foundation where: the private foundation is a testamentary trust; at least 95 percent of the stock of such enterprise was acquired by bequest from the creator of the trust; the creator of the trust died more than ten years before the date of enactment of this Act; all of the net income of the foundation is required to be distributed annually in specified percentages to specified churches, educational institutions, and orphanages and historical societies; no member of the family (within the meaning of section 4946(d)) of the creator of the foundation is a manager of the foundation (as defined in section 4946(b)) on or after December 31, 1959; such enterprise on October 9, 1969, is of substantially the same character as the enterprise which was conducted by such incorporated business enterprise on the date of the creation of such foundation; and such enterprise, in 3 of the last 5 taxable years ending on or before December 31, 1969, and in each taxable year ending after such date, distributes to its shareholders more than 40 percent of the amount by which its taxable income exceeds the tax imposed by section 11 for the taxable year. This subparagraph shall continue to apply only so long as such enterprise continues to be of substantially the same character as the enterprise which was conducted by such incorporated business enterprise on the date of the creation of such foundation."

On page 112, line 19, strike out "Subparagraph (A)" and insert in lieu thereof "Subparagraphs (A) and (D)".

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

Mr. ERVIN. I yield

Mr. LONG. Mr. President, the Senator's amendment has to do with a foundation that owns a newspaper in Morganton, N.C. The committee did agree to a couple of exemptions to the divestiture rule with regard to foundations, where certain members of the committee found that a severe problem was created. The Senator's amendment has the same merit as the other two exceptions we made.

Would the Senator mind telling me the name of the foundation?

Mr. ERVIN. The organization is a testamentary trust created by the will of Miss Beatrice Cobb, who died in September 1959.

Mr. LONG. Mr. President, I have discussed this matter with the Senator. If this amendment were offered as a private relief bill, I would have no objection to it. In view of the fact that the committee made two exceptions to the divestiture rule when it considered the matter, on the urging of Senators who had a particular problem with regard to some foundation created by a former citizen of their State, I feel that it would be fair to make an exception with regard to this situation, which the Senator finds would create a hardship for the people involved by requiring them to divest under the general language of the bill.

I am informed that the Senator from Delaware (Mr. WILLIAMS), who voted against making any exception at all, will vote against the amendment, as a matter of consistency. I believe he is willing to let this matter be decided on a voice vote.

Mr. WILLIAMS of Delaware. The Senator is correct. I think a mistake was made when an exception was made for the other foundation, but I must admit that there is some similarity between this one and the other. I objected to the other amendment, and I hope this amendment will not be accepted.

Mr. ERVIN. This would be within the provision of section 4943(A)(i) as set forth on page 111 of the bill, except for the death of the testator, which occurred about 2 years and 9 months later. My proposed amendment is stricter because it provides that the testamentary trust must disburse all net income each year. I do not know any other foundation that would come under this amendment.

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

Mr. ERVIN. I yield.

Mr. CURTIS. I ask this question of the distinguished Senator: Is this the case we discussed in which the trust owns 100 percent of the stock of a going business?

Mr. ERVIN. It owns virtually 100 percent of the stock. It has just enough shares outstanding to have one share held by the members of the board of directors. It owns approximately 99 percent of the stock.

Mr. CURTIS. I wholeheartedly support the Senator's amendment, and this is why: There is absolutely no revenue involved.

I disagree with the idea of divestiture, but I can understand the argument made for it where a foundation owns part of a business and private individuals own part of the business; because there is always the fear that perhaps the foundation would be maneuvered in voting as shareholders, to the advantage of private parties. When the foundation is the owner of substantially all of a business, there can be no conflict of interest, and for that reason it should be exempted from the divestiture. It is right and it is fair. To do otherwise would violate the will of the testator. It would bring no revenue. It would be an attack upon some very fine activities of a foundation.

Mr. LONG. Mr. President, Miss Beatrice Cobb, who published and edited the Morganton, N.C., News Herald for approximately 50 years, died September 11, 1959. Under her last will and testament, she left all of her property to a trust whose trustees are directed to pay out all of the net income of the trust each year by specified percentages to various churches, educational institutions, and orphanages named by her in her will. This trust owns virtually 100 percent of the entire stock of the Morganton News Herald which, as a corporation, pays taxes upon its income. Any dividends paid to the trustees upon the stock held by them in the News Herald is paid out each year along with the other income of the trust for the charitable purposes stated above. The will requests the trustees to continue the publication of the Morganton News Herald in accordance with the policies which Miss Cobb herself followed in operating such newspaper.

Miss Cobb requested in her will that this trust continue to operate the Morganton News Herald and any money made by the newspaper should be donated to charity. I am sure that the testator would not have created this foundation if she had known that it would be required to divest itself of the stock. She probably would have left it to an individual, a public-spirited person upon whom she could rely to continue to operate the newspaper.

This is the kind of situation people cannot forsee, and I think there is much merit to permitting this newspaper to be operated as the testator intended, with the money donated to charity. That being the case, I think it is a meritorious amendment. I would be willing to vote for it as a private relief bill. We already have some exceptions in the bill that have similar merit.

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

Mr. ERVIN. I yield.

Mr. CURTIS. Is it not also true that if a forced sale of a business takes place by reason of the operation of this law, there is a great risk that, because it is

a forced sale, it will be sold at a very low price or that it will be sold to a national chain or other large group, and thus contribute to the problem of merger and monopoly?

Mr. ERVIN. That is true. That is one of the reasons why this testamentary trust was established by this lady, who had published the paper for more than a half century, and she requested that the trustees continue the publication according to her policies and as a local paper.

Mr. CURTIS. And I dare say that the newspaper itself is paying every tax that any other corporation pays.

Mr. ERVIN. Yes.

Mr. BYRD of Virginia. Mr. President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. BYRD of Virginia. Is it a good newspaper?

Mr. ERVIN. Yes, very good.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from North Carolina. [Putting the question.]

Mr. WILLIAMS of Delaware. I vote "No."

The amendment was agreed to.

AMENDMENT NO. 370

Mr. SPARKMAN. Mr. President, I call up my amendment No. 370 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. SPARKMAN. 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:

Amend H.R. 13270 by adding as subsection (5) to section 509(a) of the Internal Revenue Code of 1954 as added by section 101(a) of H.R. 13270, Tax Reform Act of 1969, the following:

"(5) Nor shall the term 'private foundation' include an organization or trust created or established under the terms of a will or a codicil to a will executed on or before March 30, 1924, by which the testator bequeathed all of the outstanding common stock of a corporation in trust, the income of which trust is to be used principally for the benefit of those from time to time employed by the corporation and their families, the trustees of which trust are elected or selected from among the employees of such corporation, and which trust does not own directly any stock in any other corporation."

Mr. SPARKMAN. Mr. President, this amendment is sponsored by the distinguished Senator from Alabama (Mr. ALLEN), who is presently occupying the Presiding Officer's chair, and by me.

This amendment is almost on all fours with the amendment offered by the Senator from North Carolina. I hope the Senator from North Carolina will remain in the Chamber and hear my case because it is almost on all fours with his case.

What happened in this matter is that back in 1924 Mr. John J. Egan, a citizen of Atlanta, Ga., who owned the American Cast Iron Pipe Co. in Birmingham, died and left a will.

He had set up a profit-sharing plan for the employees of that company whereby they received all profits over and above 6 percent. He had provided for 6-percent earnings on his investment, and that was all. In his will he transferred complete ownership, every part of that company, to the employees. He did it in the form of a trust, a foundation set up to handle the matter. The employees today own 100 percent of that plant and its operation.

The number of employees back in those days was much smaller than it is now. I do not know how many employees they had but, I daresay, they did not have over 1,000 employees, and perhaps 750. Today they have 3,000 employees.

Back at the time he made his will, the company was worth approximately $1 million. Today the company is worth $43 million, every part of which is owned by the employees, and no member of the Egan family has anything to do with it. They are not connected with it or with the foundation. The foundation uses the proceeds in accordance with the will Mr. Egan made about 45 years ago for the purpose of taking care of employees and their families in case of sickness, in case of unemployment—or where because of an accident or something of that nature they could not carry on the work—medical treatment when they needed it, and things of that kind.

Mr. President, the business is operated by a corporation, and the foundation is to get all the benefits. Last year the company had gross revenues of approximately $5 million. They had taxes of more than $2 million. Every part of the earnings of the corporation, as such, is taxable. Every part of the earnings of the employees is taxable, and all those taxes have been paid. That left profits of approximately $2.7 million.

Now, they do what any prudent business management would do. They put aside funds to take care of expansion. They are now engaged in an expansion program involving $12 million. This one plant they are now in the process of constructing will cost $9 million. They put aside something for that each year.

Last year the need for services that I mentioned to take care of employees required only $42,000. The remainder of the money they used in paying their taxes, in construction and expansions, and setting up reserves to take care of those things.

They have borrowed $12 million and they need to build up a reserve. Not one part of this money has gone to profit any individual. Mr. Egan was one of the great public spirited men of all time. I had the pleasure to know him and to know something of the good work he did before he died. He left something here that has been handled in accordance with the directions in his will. I venture the assertion that nobody can find anything irregular in the administration of this affair. I believe it is unique and I believe it is deserving of special treatment, just as others have received special treatment.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. WILLIAMS of Delaware. Mr. President, I did not support the amendment of the Senator from North Carolina but I did recognize there was some similarity between that measure and the previous amendment which the committee had agreed to. However, there is little similarity between the Ervin amendment and the pending amendment.

Under the amendment of the Senator from North Carolina (Mr. ERVIN) at least 40 percent of the corporation's income was being distributed to the foundation and was being redistributed to charity. Under the preceding amendment there was an easing only of the divestiture rules as far as that foundation was concerned. I think even that was a mistake.

However, in this case, we would be carving this foundation out from any of the rules of the bill as it is before us. For example, we would be exempting this foundation from the self-dealing rules, we would be exempting it from the divestiture and payout rules and from the audit tax.

The company is now distributing about 1.5 percent of its earnings after taxes to the foundation. This means that on a $43 million investment, the foundation is receiving only about $42,000. The rest of the corporation's earnings are being plowed back in new investment in the business and are providing no benefit to charity.

There is a vast difference between this amendment and the other amendment. I would certainly want a rollcall vote.

Mr. President, if the Senate is going to completely exempt this foundation, the Senate might just as well eliminate from the committee bill all provisions dealing with foundations.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. ALLEN in the chair). Is there a sufficient second? There is not a sufficient second.

Mr. WILLIAMS of Delaware. Mr. President, I will suggest the absence of a quorum in just a moment and renew the request.

Mr. MILLER. Mr. President, I share the concern of the Senator from Delaware in that the amendment does go very far in eliminating the application of any of these rules that the committee adopted. It seems to me that there is a laudable purpose for a trust that has been established for the use and benefit of the employees of the trust. If that is the purpose, I cannot understand why the application of self-dealing rules of the committee bill would be objectionable to such a trust. I cannot understand why the payout rule would be objectionable to such a trust.

I am wondering if the Senator from Alabama might not see fit to redraw his amendment so that it would be, let us say, excepted from the divestiture rule. If he were to do that, it might get away from some of the objections of the Senator from Delaware and some of the concern that I have.

Mr. LONG. Mr. President, it seems to me if we agree to the amendment, we will be looking at this problem in conference. I should think that in view of the fact that the self-dealing rules and the dives-

titure rules are House provisions, we could look into this problem in conference and agree to such part as the House and Senate conferees would be willing to accept and eliminate the rest of the amendment.

In view of the fact there are other exceptions in the measure that we will be considering at the same time, we could take a look at this foundation and see to what extent we could go along with the relief it seeks.

I hope we do not spend days on end here trying to pick apart amendments and taking some parts and rejecting other parts when the entire thing will be in conference anyway.

Mr. MILLER. Let me say in response to the able chairman of the committee that I am sure all of us are acutely aware of the fact that there has been criticism in the press for some special interest legislation which has been adopted on the floor.

Mr. CURTIS. Mr. President, will the Senator from Iowa yield right there?

Mr. MILLER. I should like to complete my thought first. The amendment could be modified so that any criticism that this is special interest legislation would be poorly taken, so long as it would not impinge upon the objective that the proponent of the amendment is trying to achieve.

It seems to me that in a matter of moments the amendment could be modified, especially if I am correct in my thinking that the main concern is the divestiture provisions which are quite harsh, I might say, in the case of a trust set up for employees of a corporation and could work a hardship. To that extent, I would think progress could be made. It would still be in conference and I think that some of us would feel more comfortable about it if it did not go quite so far as the amendment, now drawn, would go.

Mr. WILLIAMS of Delaware. Mr. President, striking out the divestiture rule would not eliminate the objection. The amendment was drafted to keep the foundation from the need to comply with any of the rules so far as the tax bill is concerned.

Mr. President, I suggest the absence of a quorum and I will ask for the yeas and nays.

Mr. SPARKMAN. Mr. President, will the Senator from Delaware withhold his request for a moment?

Mr. WILLIAMS of Delaware. I withhold my request.

Mr. SPARKMAN. The Senator knows that I have stated to him and to the chairman that if there is objection to the form of the amendment, we can still take it to conference and it will be wide open. If the conferees agree with the suggestion made by the Senator from Iowa, I would have no objection. That is the thing I have been primarily concerned with. The workers there own every bit of the company, but the provisions in the bill, if I understand them correctly, state that each year they will have to pay out, or will have to distribute, 6 percent of their assets. The assets are now about $42 million.

One way they can do that is to divest themselves of their stock. In other words, in 16 years they will put themselves out of business. They will be taxed out of business.

Mr. CURTIS. Mr. President, the distinguished Senator from Iowa (Mr. MILLER) made reference to what certain of the press might say about some of the provisions of the bill. I have a high regard for the press. I think they realize when a Senator is demagoging or when he knows what he is talking about. I do not think it comes as a surprise to them.

We, too, can realize when someone writes well. We know when they do not know anything about what they are writing, or when they are demagoging.

Mr. President, a certain newspaper in Washington—I shall not mention its name, but it is published in the morning—[laughter]—carried a statement by a distinguished Senator with a list of loopholes in the bill.

Now, two of those items did not have one bit of reference to revenue. That newspaper deceived the public. It either did not know what it was talking about, or it deliberately deceived the public. This newspaper can take any position it wants to, of course, but it enumerated a group and said, "These are loopholes in the tax program."

As a matter of fact, the business owned by that foundation pays every tax that any other corporation pays.

I am not concerned about having the press write the tax bill. They can criticize me. I can take it. That is why we have a free press. I am glad when they do. It shows that our country still breathes.

But they should realize, just as they can recognize when someone here does not know what he is talking about, that this is a two-way street. I, for one, feel that the tax bill should be written by the elected representatives of the people and not anyone's propaganda organ.

I do not know the details about the foundation to which the distinguished Senator from Alabama is referring. I suppose it will do no great harm to take the amendment to conference and look into it.

The other day, when we voted on the 6-percent compulsory payout, the information was presented here to the effect that the major foundations had no objection to it. But, of course, the small ones have terrible objection to it.

As a matter of fact, I found out that the major foundations have no objection. I hold in my hand a letter from one of them which repudiates what was said about them. I was called on the telephone by another one. That was not an amendment that was lacking in opposition. It is over now. Fortunately, it is not in the House bill. I hope that adequate information can be laid before the conferees.

Mr. President, I did not want this moment to pass without raising my voice against a deliberate deception, or else it was gross ignorance, on the part of a publication that held up as tax evasion an amendment placed in the tax bill by the Finance Committee that did not affect revenue one bit. As a matter of fact, when the Treasury Department testified before the committee, I asked the question, "Is there any revenue involved in the issue of divestiture?" and the answer was "No."

Mr. President, I yield the floor.

Mr. WILLIAMS of Delaware. Mr. President, in this particular case, I think it should be said that no one could have presented his amendment more fairly or more openly than the Senator from Alabama. We were given a copy of the amendment a couple of days ago so that we could study it. It was outlined to the chairman of the committee, not only as to the amendment but also as to the name of the foundation involved, and when the Senator from Alabama made his opening remarks he also outlined all the details. So there is no question that there is anything personal about this.

The point I make is—and it is true—that we could take the amendment to conference but why approve it at all? There is no question that it does exempt this particular foundation from all provisions of the tax bill.

The Senator from Alabama admitted that was his objective, and I respect him for his frankness. We can achieve the objective of the amendment, conceivably, by eliminating from the bill all provisions dealing with foundations and then all foundations would be in conference, including this one. But the reason I have to object to this one is that I have been contacted by any number of foundations, including some from my own State—and worthy foundations—who likewise would like to be exempted from some of the provisions in the bill.

I have said that I would not go along with any exceptions. They should all be treated alike. I know that the Senator from Alabama understands my position.

That is the point I am making. That is the reason I would ask for a rollcall vote and abide by the decision of the Senate.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. ALLEN. Mr. President, all of the issued and outstanding common stock, 1,085 shares, of American Cast Iron Pipe Co.—Acipco—is owned by the trustees of the trust created by the codicil to the will of John J. Eagan, who died on March 30, 1924. The trustees, as provided in the codicil to the will, are the members of Acipco's board of management and board of operatives, all of whom are officers or employees of Acipco, and none of whom are members of the Eagan family. The trust, which is commonly referred to as the Eagan trust, is for the benefit of employees of Acipco and their families. The will provides, in essence, that income from the trust shall be used by the trustees to insure to the employees an income equivalent to a living wage, to pay an income to any employee, or to the wife and minor children of any employee, at such times as the plant of Acipco may be shut down, or at such times as an employee through accident, sickness, or other unavoidable cause shall be unable to work, and to provide other benefits for employees and their families. The Eagan trust has been held to be a charitable trust by both Federal and State courts in the cases of *Eagan*

v. *Commissioner of Internal Revenue* (5th Cir., 1930), 43 F. 2d 881, and *Mrs. Susan Young Eagan and Marion M. Jackson, as Executors of the Last Will and Testament of John J. Eagan, Deceased,* v. *W. D. Moore, et al.* (No. 61106, Superior Ct. of Fulton County, Georgia, 1924). The trust is presently exempt from Federal income tax under section 501(c)(3), having received a ruling from the Commissioner of Internal Revenue by letter dated February 15, 1946, that it was exempt from Federal income tax under the provisions of section 101(6) of the Internal Revenue Code, the predecessor section of 501(c)(3).

The trust also bought from Acipco at par, and now holds $1,400,000 par value of 5 percent noncumulative preferred stock of Acipco. The common stock has a book value of approximately $40 million. The Eagan Trust has no assets other than the Acipco common and preferred stock and there have been no donations to the trust by anyone since Mr. Eagan died.

Acipco employs approximately 3,000 people directly at its plant and offices in Birmingham, Ala. Acipco's payroll in Birmingham will amount to over $25 million this year. The company spends approximately $30 million annually in the Birmingham area for raw materials, goods and services. In addition to wages and salaries Acipco provides very substantial fringe benefits for its employees and members of their families in the form of bonuses based on profits, medical services, pensions and retirement benefits and group insurance. The effect of providing such benefits is to further the purposes of the trust. Each year Acipco retains a portion of its earnings—in 1968, $2,754,398—for general corporate purposes, principally to protect, preserve and maintain its facilities. Of course, Acipco pays income taxes on its net earnings on exactly the same basis as any other business corporation—in 1968, approximately $2,883,000 to the Federal and State governments—and all amounts paid by Acipco to its employees as wages or other compensation are fully taxable to the employees.

The definition of a "private foundation" contained in H.R. 13270, the Tax Reform Act of 1969, could be held to include the Eagan trust. Other provisions of the act would, in effect, require "private foundations" to divest themselves of stock constituting in excess of 50 percent—20 percent in the House bill—of the stock of any corporation. In addition, under the act "private foundations" would be required to distribute all of their income currently and, in determining income, the act would impute income to the foundation of 5 percent of the fair market value of its assets.

As indicated above, the Eagan trust owns all of the outstanding common stock of Acipco and $1,400,000 of preferred stock. Furthermore, the income of the Eagan trust does not even approach 5 percent of the value of its assets; that is, the value of the Acipco common and preferred stock or approximately $41,400,000. In view of the substantial fringe benefits provided by Acipco to its employees and their families as indicated above, the trustees, as owners of the Acipco stock, have requested the company from time to time to distribute to the trust as dividends only such amounts as have been reasonably required to carry out fully the purposes of the trust. In 1968 the trust received $42,000 in dividends which it used exclusively for purposes of the trust. The requirement for distribution of income not less than 5 percent of the value of assets of the trust would substantially eliminate the benefits that Acipco furnishes and seeks to furnish to its employees. If 5 percent of $41,400,000, which is $2,070,000, has to be distributed each year there would be no way to furnish substantial fringe benefits and to maintain the plant and operate the company. Any sales of stock to create funds for distribution would be impossible because of the provisions and purposes of the trust.

The effect of the provisions of the proposed act referred to above, if applied to the Eagan trust, would be to require the trustees in some fashion and probably only after litigation, to divest themselves of 50 percent—80 percent under the House bill—of the stock of Acipco, contrary to the terms of the will and probably ultimately to destroy the trust estate entirely by forcing the trust to distribute principal as imputed income. As to any amounts required to be so distributed beyond what is required for the charitable purposes of the trust, it is, of course, impossible to say to whom, for what purposes and with what effect amounts in excess of those required for the purposes of the trust would be distributed. There is certainly no reason to limit to 40 years the tax-free status of such a trust.

Application of the provisions of the proposed act to the Eagan trust would not only result in little or no additional revenue to the Government, but would completely defeat the testator's benevolent, praiseworthy and legitimate intent. It could well be disastrous to Acipco by forcing it to pay out as income greater amounts than would be prudent. It would without question materially adversely affect the employees of Acipco and members of their families by depriving them of the benefits of the trust.

Since tax avoidance is not in any manner involved in this trust, the bill should be amended to remove it from the definition of private foundations subject to new rules and taxes aimed at preventing abuses. Indeed, the Eagan trust is probably unique in this country and is entitled on its merits to continue because of the social and charitable advantages that it affords to its beneficiaries and to the public.

Mr. WILLIAMS of Delaware. Mr. President, I am ready to vote.

Mr. LONG. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. MCCARTHY), 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 49, nays 45, as follows:

[No. 202 Leg.]

YEAS—49

Allen	Harris	Moss
Bayh	Hart	Pell
Bible	Hatfield	Randolph
Burdick	Holland	Russell
Byrd, Va.	Hollings	Sparkman
Byrd, W. Va.	Hruska	Spong
Cannon	Hughes	Stennis
Cranston	Inouye	Stevens
Curtis	Jackson	Talmadge
Dodd	Javits	Thurmond
Dole	Jordan, N.C.	Tower
Eagleton	Long	Williams, N.J.
Eastland	Magnuson	Yarborough
Ellender	Mansfield	Young, N. Dak.
Ervin	McGee	Young, Ohio
Fannin	Mondale	
Gravel	Montoya	

NAYS—45

Aiken	Gore	Nelson
Allott	Griffin	Packwood
Baker	Gurney	Pastore
Bellmon	Hansen	Pearson
Bennett	Hartke	Percy
Boggs	Jordan, Idaho	Prouty
Brooke	Kennedy	Proxmire
Case	Mathias	Ribicoff
Church	McClellan	Saxbe
Cook	McGovern	Schweiker
Cooper	McIntyre	Scott
Cotton	Metcalf	Smith, Maine
Dominick	Miller	Smith, Ill.
Fong	Murphy	Tydings
Goodell	Muskie	Williams, Del.

NOT VOTING—6

Anderson	Goldwater	Mundt
Fulbright	McCarthy	Symington

So Mr. SPARKMAN's amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. (Mr. HUGHES in the chair). The Senator from Kansas is recognized.

AMENDMENT NO. 413

Mr. DOLE. Mr. President, I call up my amendment No. 413, with certain modifications.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Kansas (Mr. DOLE) proposes an amendment as follows:

On page 216, strike out lines 9 through 25, and insert in lieu thereof the following:

"(8) PERCENTAGE DEPLETION.—

"(A) MINERAL PROPERTIES OTHER THAN OIL AND GAS.—In the case of a mineral property (other than an oil or gas well located in the United States) the excess of the deduction for depletion allowable under section 611 for the taxable year with respect to each property (as defined in section 614) over the adjusted

basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year).

"(B) OIL AND GAS WELLS.—In the case of oil and gas wells located in the United States the excess of the deduction for depletion allowance under section 611 for the taxable year from all oil and gas wells in which the taxpayer has an interest (including nonoperating mineral interests, as defined in section 614(d)) over the amount which the aggregate adjusted basis of all such interests in the hands of the taxpayer would have been at the end of the taxable year (determined without regard to the depletion deduction for the taxable year) had the aggregate basis of such interests been increased by intangible drilling and development costs incurred by him with respect to such interests (other than those incurred in drilling nonproductive wells) and deducted under section 263(c). For purposes of this paragraph the term 'oil and gas wells' includes undeveloped oil and gas properties."

Mr. LONG. Mr. President, I ask for the yeas and nays. The yeas and nays were ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, is the Senator from Kansas willing to agree to a time limitation?

Mr. DOLE. Yes.

Mr. LONG. How much time does the Senator need?

Mr. DOLE. 20 minutes for each side.

Mr. LONG. Mr. President, I ask unanimous consent that debate on the pending amendment to be limited to 40 minutes, the time to be equally divided between the sponsor of the amendment and the manager of the bill.

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

Mr. DOLE. Mr. President, the purpose of amendment No. 413 to H.R. 13270 is twofold:

First, it would remove from the bill before us an inequity; namely, the taxation of an ordinary business expense. This inequity is created by the tax on preference items provided for in subparagraph (A) of paragraph (8) of section 57 on page 216 which would subject ordinary business expenses of any taxpayer engaged in the exploration and development of oil and natural gas reserves to a special 5-percent tax on preference items as defined in that section. Under the bill, intangible drilling and development costs are defined as a preference item and would be subject to the 5-percent tax. Intangible drilling and development costs are the oil man's ordinary business expenses. They include expenses for nonsalvageable items and, therefore, constitute nonrecoverable business expenses. It is not logical or reasonable to tax ordinary business expenses.

Second, a basic purpose of this amendment is to provide an incentive to the taxpayer to reinvest or plow back into his business funds derived from the depletion provision of the tax law. The amendment provides that the taxpayer would be subject to a 5-percent tax on allowable depletion. But the amendment further provides that to the extent that the taxpayer reinvests funds on intangible drilling and development costs, the amount of depletion subject to the tax is reduced accordingly. In other words, a person who receives a depletion deduction but who does not engage in exploration and development activity will be subject to the full 5-percent tax. On the other hand, if the taxpayer engages in exploration and development activity then the amount of depletion subject to the tax is reduced by the amount of intangible drilling and development expenses that have been reinvested.

Mr. President, this incentive to reinvest funds derived through the depletion provision is in accord with the recognized need on the part of officials in Government and industry that, if we are to meet the rapidly growing demand for both oil and natural gas, very substantially increased funds must be invested in the exploration and development of these resources. The amendment will serve the best interest of our Nation by encouraging expansion of our domestic economy. More important, it will serve our military security by encouraging the development of reserves of a vital commodity.

Mr. President, without attempting to discuss the merits of the entire provision of the pending bill pertaining to the proposed tax on preference items, I wish to point out that this provision was designed to insure that all citizens should pay a minimum tax on income which under present law is sheltered. The error of the bill is that under subparagraph (A) it would tax an expense—money paid out by the taxpayer—not income. I urge my colleagues in the Senate to consider the adverse impact that this provision could have on oil and gas consumers, on the economy of the oil and gas producing States, and on our national security posture.

The most important question for the Senate to consider in reaching a decision on my amendment is—what will be the effect on the ability of the petroleum industry to meet the future requirements of this Nation?

In this regard I wish to point out that according to a study by the Department of the Interior we have not been carrying on an adequate exploration and development program for more than 10 years because of excessive imports and other economic reasons. If we are to meet the needs for the next 10 years these exploration and development efforts must be increased by at least 50 percent. Under these circumstances we in the Congress would be acting irresponsibly if we should take action that would discourage exploration and development activity. Rather, we should be encouraging this effort and that is the purpose of my amendment.

Mr. President, historically most of the exploratory or wildcat drilling that is done in the search for new reserves of oil and natural gas is conducted by independent producers rather than the large integrated companies. The independents are relatively small. They have limited capital. They also have limited means of raising capital. The independent must look to sources outside the industry to supplement his own funds in order to accumulate sufficient capital to drill wildcat wells or development wells in his search for new petroleum reserves. His ability to do this would be very greatly impaired if the proposal to tax ordinary business expenses, as set forth in subparagraph (A), is permitted to stand. Intangible drilling and development expenses, which this proposal would subject to a 5-percent tax, comprise some 60 percent of the cost of the drilling of a well and, therefore, are a large factor in the total drilling and development costs. It is obvious that a tax on an expenditure would be a very telling impediment to the outside investor and to the flow of capital into the petroleum industry.

At a time when our Government recognizes the need to substantially increase the search for new oil and gas supplies, this is not the time to adopt a tax provision which would drive capital away from oil and gas drilling.

No tax provision should make it impossible for taxpayers to deduct their ordinary and necessary business expenses. Yet that would be the result if there is a penalty tax placed on such expenditures as would be the case under this proposal.

Mr. President, I cannot overemphasize the importance of not further discouraging investment in oil and gas exploration. This industry has not been attracting sufficient capital for the past 10 years and we are seeing the results of this situation.

Last year, for the first time in our history, U.S. oil producing capacity declined. We know from the 1967 Middle East war that our oil producing capacity at that time was at a bare minimum to meet a very short emergency. Since then our requirements and that of our allies have grown. We need more capacity, not less.

Furthermore, the Department of the Interior and the Federal Power Commission have warned that the Nation faces a critical situation with respect to natural gas supplies and many in Government and the industry feel immediate corrective actions are urgently needed. Last year for the first time in this Nation's history we consumed more natural gas than we found.

This serious situation will be further aggravated if essential funds needed for drilling are driven away from this industry by the unwise policy of taxing ordinary business expenses.

Mr. President, let me point out how this would work. For example, if an oil producer had gross income from his business, of say $100,000 for a year, he would be entitled to the depletion allowance. Independent producers, receive on the average a depletion allowance of between 15 to 20 percent.

In this regard I emphasize that although the present law provides for 27.5 percent, it will be reduced to some smaller figure because of the action of Congress this year.

The producer very often receives much less than the full percentage depletion allowance, because the law provides that the depletion exemption cannot exceed 50 percent of the net income.

As a result, producers in my State generally receive an actual depletion allowance about 18 to 20 percent. This means in my example that if the producer's gross income is $100,000, the depletion allowed would be $18,000.

Mr. President, under my amendment a producer would be subject to a 5-per-

cent tax, or $900 on the $18,000 depletion if he did no drilling for additional reserves of oil or gas and thus incurred no intangible drilling costs.

However, if he did drill for additional reserves of oil or gas and incurred costs of, say $10,000, the amount of depletion subject to the 5-percent tax would be reduced by $10,000. That is, the 5-percent rate would be levied on the $8,000 balance and he would pay a tax of $400.

Mr. President, I think it is important to note that the House of Representatives in its bill dealing with so-called tax preferences did not include "intangibles" as a preference item. Further, the comprehensive recommendations dealing with the minimum tax provision as sent to the Congress earlier this year by the outgoing Johnson administration did not include "intangibles" as a tax preference item. And most importantly, the Treasury Department in its testimony submitted to the Senate Finance Committee declared:

> First, in view of the substantial reduction in percentage depletion contained in the bill, the inclusion of the intangible drilling cost deduction as a tax preference item could work an unintended hardship in the case of an individual whose principal business is exploration for oil and gas.

Accordingly, the administration proposed that intangible drilling and development costs be excluded from the proposal pertaining to "tax preferences."

Mr. President, let me say as simply as I can that all the amendment would do would be to permit a man in the business of exploring for oil and gas to deduct his intangible expenses for drilling from the allowed depletion and pay a tax of 5 percent, a supertax, on the excess of depletion over intangible costs.

He would not be required to pay an additional 5-percent tax on the expenditures. I believe that the theory of income tax law is to tax income, not expenditures.

Mr. PEARSON. Mr. President, this is a somewhat complicated matter, as are all the tax matters in dealing with specific industries.

I ask my distinguished colleague if he will once again go over the example he set forth so that those who are present in the Senate Chamber will have a very clear understanding of what the amendment would do.

Mr. DOLE. Mr. President, let me restate that a firm or an individual in the business of gas or oil exploration with a gross income of $100,000 is entitled under the present law to a depletion allowance of 27.5 percent.

Because of the limitation on the depletion deduction, most producers get an effective rate of around 18 or 20 percent.

Let us say that a man's depletion does work out to 18 percent, because of the 50 percent net income limitation already in the law. Under my amendment the producer would be subject to the 5 percent tax or a tax of $900 on the $18,000 of depletion he would be entitled to take if he had not drilled further for oil or gas. He would pay 5 percent on the full amount of $18,000. However, if he does what the amendment will encourage him to do and goes out to drill and explore for oil and gas, he is entitled to deduct the intangible drilling costs from the sum allowed for depletion. And he would be entitled to deduct $10,000 from the $18,000 depletion figure. That would mean he would pay at a 5-percent rate on the remaining $8,000, or a tax of $400.

Let me stress again that during the committee hearings the Senator from Iowa stressed the need to provide some incentive for independent oil and gas producers.

The pending amendment would permit a man to plow the money back into the industry to find more oil and gas.

That is purely and simply the thrust of our amendment.

Mr. President, I respectfully urge the Senators to support amendment No. 413 as modified.

Mr. PEARSON. Mr. President, I thank my colleague. The Senator is precisely correct. This is a tax on a business expense. It is a great burden to the independent oil producers, particularly in the State of Kansas.

The oil industry is made up of two parts—the great majors and the independents.

I had thought and wondered about the rationale of the 5 percent. Why should we not make it 10 percent, or 2.5 percent? It seems to me that the raticnale of those for this particular proposal reaches the point where they say, "There ought to be some tax here. We do not know what it ought to be, but we will just put 5 percent on."

This, I might say, is a middleground, a reasonably moderate course, and a just one, it seems to me. It is still more than that recommended by the House or that recommended by the administration. I think it will provide the incentive to reinvest and discover and meet the growing demand of the national security interests involved here.

I congratulate my colleague for leading the effort in this modification, which would be of great benefit to the producers in the State of Kansas.

Mr. DOLE. I thank my colleague from Kansas, who has been most helpful and has worked diligently with me on this amendment.

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

Mr. DOLE. I yield.

Mr. HANSEN. I thank the distinguished Senator from Kansas, and I compliment him for the leadership he has demonstrated in trying to bring about justice and equity to a very much beleaguered industry.

Certainly, everyone agrees with the concept that tax reform is indicated; but, unfortunately, in the minds of too many people the word "oil" is synonymous with tax reform. Unfortunately, many people think that all that is required today to bring about tax reform is to sock it to the oil industry.

Let us take a look at what we are doing here. In the first place, let us remember that 80 percent of all the new discoveries in the continental United States, excluding those on the outer continental shelf, in the last several years have been made by independents. These are not big oil companies. These are hard-working, small outfits that require the additional financing that has been available to them in order to continue their expensive exploration activities. These activities have been good for the United States. They have added significantly to the security that we have by virtue of controlling our own sources of supply for energy which are so important to us, and we should remember that 75 percent of all the energy that is produced in the United States today comes from oil and natural gas.

So what this amendment will do is to help those independents to continue their search for this elusive natural energy resource that is so important to the security of the United States and is equally important to the economy of America.

Let me underscore the significance of that statement by inviting attention to the fact that in my State of Wyoming the oil and gas industry pays one-third of all the county taxes levied in that State. It pays almost 26.5 percent of the ad valorem tax that is levied by the State of Wyoming. It represents 29.6 percent of the total assessed valuation of Wyoming.

This sort of tax—the sort of tax that my colleague the Senator from Kansas hopes to eliminate through the adoption of his amendment—would put us back on a course that this country has followed for a long time. Never before in the history of the United States, insofar as I know, has there been a tax levy on an expense item. But, as the distinguished Senator from Kansas has pointed out, this tax reform bill, as it is written, does not levy a tax on assets. It does not levy a tax on income. It levies a tax on expenditures. If a man has to take money out of his pocket, as all oil people do, to drill oil wells, this puts a tax on that expenditure.

Is that not what my colleague has been saying?

Mr. DOLE. That is my understanding. I think this proposal to tax expenditures is probably unprecedented.

I know that the purpose of the tax preference amendment is to make certain that everybody pays some tax. We are not objecting to the theory. In fact, I believe the oil industry has made a substantial contribution to tax reform. They have accepted the depletion reduction in good grace. They do not like it, but they have accepted it. We have told them to accept it. But it seems to me unconscionable to ask these independent oil and gas producers and developers to dig into their own pockets and spend their money and pay a 5 percent tax on the money they invest. I believe it is wrong in principle, and I believe the small producers should receive fair treatment.

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

Mr. DOLE. I yield.

Mr. LONG. Mr. President, I ask unanimous consent that the time in opposition to the amendment be controlled by the Senator from Delaware (Mr. WILLIAMS), inasmuch as I favor the adoption of the amendment.

The PRESIDING OFFICER (Mr. GURNEY in the chair). Is there objection? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, most people think of this bill, as it affects the oil companies, as accomplishing tax reform, because it reduces the depletion allowance from 27½ percent to 23 percent, which is approximately a 20 percent reduction. But it is not generally known that, in addition, we have in this bill approximately $650 million of additional taxes on the oil industry.

This particular item, if I do say it, is one that just happened by accident, in my judgment. We should not have done it. Before we received an estimate, based on a computer run, of the full effect of the provision on the oil and gas industry, the committee moved to report the bill. If there had been more time available, I would have suggested a revision along the line the Senator from Kansas has suggested, and I am confident that the committee would have agreed to it. Under the circumstances, I have no alternative but to support the Dole amendment on the floor.

What is not realized is that, in addition to reducing depletion allowances in this bill by 20 percent, we have raised $200 million by additional taxes on production payments. This so-called supertax of 5 percent raises another $200 million by taxing an expense, as the Senator has mentioned—the intangible drilling cost. It also puts an additional tax of 5 percent on depletion allowances. In addition, it taxes accelerated depreciation, and the industry loses the benefits of accelerated depreciation, which is an especially big item at the corporate level. In addition, the industry loses much of its benefits under capital gains, which also are big items in the minimum tax. Those two items go unmentioned so far as the tax burden on the oil and gas industry is concerned. They constitute another $250 million tax on the industry.

Mr. DOLE. Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. DOLE. I yield 1 minute to the Senator from Iowa.

Mr. MILLER. Mr. President, how much time remains on the other side?

The PRESIDING OFFICER. Twenty minutes.

Mr. MILLER. Mr. President, I am not sure whether I am going to vote for or against the amendment.

Will the Senator from Delaware yield me 2 or 3 minutes?

Mr. WILLIAMS of Delaware. I yield 2 minutes to the Senator.

Mr. MILLER. Mr. President, I am in sympathy with what the Senator from Kansas is trying to do. But I am not quite sure how the amendment would work out.

I understand from his illustration that in the case of, let us say, an independent oil company with $100,000 of gross income and $20,000 percentage depletion and $10,000 intangible drilling and development costs, under the amendment the $20,000 percentage depletion would exceed the $10,000 intangible drilling and development costs by $10,000, and the bill would then, as modified, apply a 5-percent tax on the $10,000. Is that correct?

Mr. DOLE. That is correct.

Mr. MILLER. However, what troubles me is a case in which there would be $100,000 of gross income and $20,000 percentage depletion and $80,000 intangible drilling and development costs, so that there would be no tax under the present law. Here is a situation in which intangible drilling and development costs exceed the percentage depletion, rather than the percentage depletion exceeding the intangible drilling and development costs, which is what the amendment seems to be limited to.

What would happen in the case I have put, in which there is an excess of intangibles over percentage depletion?

Mr. DOLE. First of all, it is not a preference; second, I doubt that it would happen.

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

Mr. MILLER. Will the Senator yield me 2 minutes?

Mr. WILLIAMS of Delaware. I yield 2 additional minutes to the Senator.

Mr. MILLER. It seems to me that under the Senator's amendment, the situation in which there is an excess of intangible drilling and development costs over depletion is not covered. If the bill were so amended there would be a gap.

Mr. DOLE. I believe it is covered. It would, as I understand, be added to the base, in view of the fact depletion runs ahead of costs by a 3-to-1 ratio.

Mr. MILLER. Mr. President, one can find every kind of example under the sun in the case of the oil industry. When these matters are clarified, percentage depletion is exceeded by intangibles in a given year. That is what concerns me where they have percentage depletion which is exceeded by intangibles in the given year.

Mr. DOLE. I understand you pick up the depletion only after you have written off all the cost, or this would never occur.

Mr. MILLER. I do not read the amendment in that way.

Mr. DOLE. Mr. President, the Senator has a great understanding of the general problem but I am speaking of a particular problem. I have discussed this matter at great length with the staff and understand it is not likely to happen because, first, you write off your costs.

Mr. MILLER. I am in sympathy with the objection, and as far as the example the Senator gave is concerned, his approach is proper, but during the time remaining I shall discuss it further with the staff.

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

Mr. DOLE. I yield if I have any time remaining.

Mr. ALLOTT. Mr. President, I applaud the Senator for bringing forth this matter because he knows that many of us worked for some time in the middle of the summer with respect to it. I think the Senator's conclusions and examples are entirely correct. We studied the matter at great length and I know they are true.

What we are doing, in effect, is setting up an expense as a capital item and taxing it. To me this does not make good sense and it is going to destroy exploration.

Mr. DOLE. Mr. President, I thank the Senator. I reserve the remainder of my time.

Mr. WILLIAMS of Delaware. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 5 minutes.

Mr. WILLIAMS of Delaware. Mr. President, first, let me clarify what we are talking about. These intangible costs have been called expenses—in fact, they are capital expenditures which in any other industry would have to be capitalized. In the oil industry, however, we let them write these costs off currently, which means they are treated differently than in all other industries. However, in the bill we say these costs must be brought back into the minimum tax base—a 5-percent minimum tax must be paid on these items. Therefore, it is just the other way around from what my friends are saying.

Mr. President, I recognize the futility of opposing this matter, but I am opposing it. There are just 11 shopping days until Christmas and considering the fact that the Senate is in the process of erecting a $12 billion Christmas tree. I suppose this bulb will be attached.

This amendment would make two changes in the 5-percent minimum tax provision. First, it would exclude as a preference item the deduction allowed for intangible drilling and development costs incurred in drilling successful oil and gas wells. Second, it would substantially reduce the amount of the preference attributable to percentage depletion taken with respect to oil and gas wells—while not similarly reducing the amount of the preference with respect to percentage depletion taken on other minerals.

The Treasury opposes this amendment. The deduction allowed for the expenses of drilling successful oil and gas wells is utilized by some investors to substantially reduce their income subject to tax.

These expenses are deducted and then, in addition, percentage depletion is claimed when the oil is produced.

The second aspect of the amendment—allowing recovery of all intangible drilling expenses before percentage depletion is treated as a preference—would mean that depletion on oil and gas would be treated as a preference only to the extent the amount of the depletion deduction for the taxable year exceeded the taxpayer's expenses in drilling successful wells during the year—notwithstanding the fact that these expenses are also allowed as a deduction against taxable income and are not themselves treated as a preference. Unless these expenses are treated as a preference item, there is no justification for allowing recovery of the expenses in computing the percentage depletion preference.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. AIKEN. Mr. President, I would like to say to the Senator from Delaware that up to now I had not realized what a good old tax bill we already have on the books. I think I will stick with it.

Mr. WILLIAMS of Delaware. At the rate this is going, instead of tax reform, this is turning into a tax relief bill. We have already in this bill increased the net income limitation on the percentage depletion deduction from 50 percent to 65 percent for persons with under $3 million of gross income from oil and gas and for some minerals we raised the limitation to 70 percent. In many categories, this bill is more generous than the existing law.

Mr. AIKEN. Why do we not add another amendment saying that anybody engaged in the extracting industries shall not be subject to any tax of any kind and then we will probably make better progress.

Mr. WILLIAMS of Delaware. It probably would save a lot of time.

Mr. McINTYRE. Mr. President, will the Senator yield to me for 3 minutes?

Mr. WILLIAMS of Delaware. I yield to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, I wish to join the distinguished Senator from Delaware in voicing my opposition to this amendment. There is no industry in this entire country that has as many tax advantages as the oil industry. I think the distinguished Senator from Kansas, in bringing up this amendment, may be trying to backtrack on some of the small ways in which we were trying to bring this industry into line as far as paying its fair share of the taxes. Perhaps he is taking advantage of the reported Christmas tree attitude.

In my study of the oil industry and its tax loopholes and advantages, I am convinced they have a real bonanza. I refer to the ability, through treatment and development costs, to write off as a deductible expense what in my mind is an investment and what most other individuals have to treat as an investment.

It seems to me the committee is saying that this is an area that gets away from taxes almost scotfree. This is a loophole. Here they are at this late hour trying to get more advantages beyond what the committee gave them.

It is too bad that every time I get involved with the oil industry and listen to their hardships and difficulties, I feel that I want to pass the hat for them. I think we should pass the hat for them today. Here is an opportunity to bear down and to make this industry pay its share of the taxes. At this late hour they are trying to take the opportunity to ride the gravy train once again. I urge every Senator to oppose the amendment.

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

Mr. McINTYRE. I yield if I have any time remaining.

Mr. DOLE. Mr. President, I was very impressed with the Senator's argument on the previous amendment of the senior Senator from New Hampshire about industry in New Hampshire. I supported the amendment because I believe there is a problem. I only ask the same consideration for the oil industry, particularly the small independent producer. We see in Kansas and in the Midwest small oil operators and are only asking they be able to stay in business and not be taxed out of business.

Mr. McINTYRE. Mr. President, I informed myself before I spoke. This amendment was not directed at only small operators. The "biggies" would enjoy this, too.

As far as my position on the amendment of the Senator from New Hampshire, my distinguished senior colleague, and my position on this oil question, I do not find them inconsistent one bit.

I thank the Senator from Delaware for yielding.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Texas.

Mr. TOWER. I thank the Senator from Kansas for yielding and I would like to thank him for offering the amendment. I do support the amendment. If this measure is not agreed to, it will mean an awfully cold winter in New Hampshire because they will not have natural gas from domestic sources. Watch the Arab sheiks when they fix the price of oil.

Sometimes somebody is going to say, "You can have Israel and no oil or you can have oil and no Israel." I want those people to remember when the Arab sheiks fix the price that they are the ones who did it.

I have always been a strong supporter of maintaining a vigorous and healthy domestic oil and gas industry. I would like to join my colleague (Mr. DOLE) in supporting the amendment to delete intangible drilling costs, and allowable depletion from the list of tax preference items.

I fear the oil and gas industry is being made a scapegoat as the result of efforts to take vengeance on a few wealthly individuals, some of whom have nothing to do with the oil business. Mr. President, in a time when we are facing a serious shortage of natural gas, may I remind you that a large percentage of new gas is discovered during the exploratory drilling of oil prospects. And it has been further determined in the recent natural gas hearings before the Interior and Insular Affairs Committee that it takes 6.4 years from the time of acquisition of prospective acreage until the time of the first pay check for gas. This means that the oil and gas operator has made a substantial capital investment that is frozen for 6.4 years with no return on his investment.

We are already experiencing a time of shortage of investment capital for this high risk business. We can not further dissipate the oil industry's working capital and this is exactly what the 5-percent minimum tax does when piled on top of regular taxes.

To permit this discouraging condition to exist for this vitally important industry will undoubtedly reduce the number of exploratory wells to be drilled and will retard the full development of new oil and gas fields as they are discovered.

We cannot permit this punitive action to be taken against the industry that supplies the major portion of the energy upon which the United States depends for its existence, as we know it today. Our wheels of industry would grind to a halt and rust in a short period of time if not powered by, and lubricated by, the products of the oil and gas industry.

And to become dependent upon foreign petroleum would be the greatest mistake we could make in this area. Until the oil producing areas of the Middle East assume some permanent order of political stability we could never depend on this source for our national power requirements.

My experience on the Committee on Armed Services has convinced me that this Nation cannot afford to be dependent upon reliable sources of essential defense needs of any kind. And this is true even if the cost is high. National security, like freedom itself, does not come cheaply. It never has, and it never will.

To complement my remarks on the importance of the continued existence of a viable domestic oil industry to our national defense, I should like to quote briefly from the most recent report of the Department of Defense report on the role of petroleum products in military effectiveness:

> The part that oil plays in the defense posture of the United States is vitally important. It is a strategic material and one of the few items that is *absolutely essential* and foremost in the minds of military commanders. Along with weapons and ammunition, the needs of petroleum get the most attention. Petroleum cannot be stockpiled like hardware—the quantities required are too great, nor can our military forces operate very long without back-up support from refinery and production sources.
>
> In Southeast Asia today, about 50% of the military tonnage consists of petroleum products. While only about 10% of the petroleum required to support the war effort is supplied from the U.S., we must maintain a capability in the U.S. to supply our war needs in case foreign sources are denied. . . .
>
> Information available today indicates that, with few exceptions, military equipment will continue to derive energy from liquid petroleum and its products for some time to come.

In short, gentlemen, the national security of this country depends upon its ability to insure an adequate supply of petroleum products. It will continue to be dependent upon that for years to come. I, for one, do not intend to let this Nation become dependent upon unreliable sources of supply for this essential defense product.

Mr. President, there are numerous economic reasons for hesitancy in any legislative sanctions on the oil and gas industry, but I wholeheartedly support the Dole amendment even if for no other reason than our national security.

Mr. DOLE. Mr. President, let me say that my intent is only to help the independent oil industry. They are the ones who go out and do the exploration all over America and these independents do not have the internal capital to do the work. This puts the independent oil operator under a tight strain. The oil industry will pay $700 million more in revenue under the bill. They accept that. But I do believe in fairness that there should not be a tax on expenditures. It is my understanding tax is on income and not expenditures.

I merely say that for the independent oil operators in Kansas, Oklahoma, Texas, Louisiana, West Virginia, Penn-

sylvania, Illinois, Colorado—wherever they may be, they need our help.

Sixty-six percent of the small wells in this country are discovered by the independent oil operator. So far as I am concerned, this is just as important an amendment as any other we have been considering. It is in no way an attempt to avoid taxes.

Mr. McINTYRE. Why does not the Senator modify his amendment and get it down to what we would call the small oil companies? Why let it go all the way? Why let Standard Oil and the rest of the "biggies" enjoy it?

Mr. DOLE. As a practical matter, this applies to the independent oil operator, because most major companies capitalize their expenditures.

Mr. President, I yield back the remainder of my time.

Mr. WILLIAMS of Delaware. 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 of the Senator from Kansas (Mr. DOLE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COOPER (when his name was called). On this vote I have a pair with the 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." I withhold my vote.

Mr. ALLEN (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from North Carolina (Mr. ERVIN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. McCARTHY), 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.

The pair of the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 44, nays 47, as follows:

[No. 203 Leg.]

YEAS—44

Allott	Fannin	Montoya
Baker	Gravel	Moss
Bellmon	Griffin	Murphy
Bennett	Gurney	Pearson
Bible	Hansen	Randolph
Burdick	Hollings	Smith, Ill.
Byrd, W. Va.	Hruska	Sparkman
Cannon	Inouye	Stennis
Cook	Jordan, N.C.	Stevens
Curtis	Long	Talmadge
Dole	Mansfield	Thurmond
Dominick	McClellan	Tower
Eagleton	McGee	Yarborough
Eastland	Metcalf	Young, N. Dak.
Ellender	Miller	

NAYS—47

Aiken	Hatfield	Pell
Bayh	Holland	Percy
Boggs	Hughes	Prouty
Brooke	Jackson	Proxmire
Byrd, Va.	Javits	Ribicoff
Case	Jordan, Idaho	Russell
Church	Kennedy	Saxbe
Cotton	Magnuson	Schweiker
Cranston	Mathias	Scott
Dodd	McGovern	Smith, Maine
Fong	McIntyre	Spong
Goodell	Mondale	Tydings
Gore	Muskie	Williams, N.J.
Harris	Nelson	Williams, Del.
Hart	Packwood	Young, Ohio
Hartke	Pastore	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Cooper, against.
Allen, against.

NOT VOTING—7

Anderson	Goldwater	Symington
Ervin	McCarthy	
Fulbright	Mundt	

So Mr. DOLE's amendment was rejected.

Mr. WILLIAMS of Delaware. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second. The yeas and nays are ordered.

Mr. PASTORE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. PASTORE. Are the yeas and nays on the motion to reconsider or on the motion to table?

The PRESIDING OFFICER. On the motion to table the motion to reconsider.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Who made the motion to reconsider?

Mr. WILLIAMS of Delaware. I did.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. YOUNG of Ohio. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. YOUNG of Ohio. There is a man in the well of the Senate. He should be ordered out.

The PRESIDING OFFICER. The clerk will suspend until there is order. Staff personnel and staff assistants of Senators will leave. The Sergeant at Arms is requested to ask staff members if they are needed in the Chamber; and if they are not needed, they are requested to leave immediately.

The clerk will continue with the call of the roll.

The rollcall was resumed and concluded.

Mr. KENNEDY. I announnce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. McCARTHY), 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 "nay."

The result was announced—yeas 46, nays 48, as follows:

[No. 204 Leg.]

YEAS—46

Aiken	Hartke	Pastore
Bayh	Hatfield	Pell
Bennett	Holland	Prouty
Boggs	Hughes	Proxmire
Brooke	Jackson	Ribicoff
Byrd, Va.	Javits	Russell
Case	Jordan, Idaho	Saxbe
Church	Kennedy	Schweiker
Cooper	Magnuson	Smith, Maine
Cranston	Mathias	Spong
Dodd	McGovern	Tydings
Fong	McIntyre	Williams, N.J.
Goodell	Mondale	Williams, Del.
Gore	Muskie	Young, Ohio
Harris	Nelson	
Hart	Packwood	

NAYS—48

Allen	Ervin	Montoya
Allott	Fannin	Moss
Baker	Gravel	Murphy
Bellmon	Griffin	Pearson
Bible	Gurney	Percy
Burdick	Hansen	Randolph
Byrd, W. Va.	Hollings	Scott
Cannon	Hruska	Smith, Ill.
Cook	Inouye	Sparkman
Cotton	Jordan, N.C.	Stennis
Curtis	Long	Stevens
Dole	Mansfield	Talmadge
Dominick	McClellan	Thurmond
Eagleton	McGee	Tower
Eastland	Metcalf	Yarborough
Ellender	Miller	Young, N. Dak.

NOT VOTING—6

Anderson	Goldwater	Mundt
Fulbright	McCarthy	Symington

So the motion to lay on the table the motion to reconsider was rejected.

The PRESIDING OFFICER. The question recurs on the motion to reconsider the vote by which the amendment was rejected.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senate will be in order.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PERCY (when his name was called). On this vote, I have a pair with the 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." I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. McCARTHY), 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.

The Senator from Oregon (Mr. PACKWOOD) is detained on official business.

If present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

The pair of the Senator from Illinois (Mr. PERCY) with the Senator from Arizona (Mr. GOLDWATER) has been previously announced.

The result was announced—yeas 47, nays 45, as follows:

[No. 205 Leg.]

YEAS—47

Allen	Ervin	Montoya
Allott	Fannin	Moss
Baker	Gravel	Murphy
Bellmon	Griffin	Pearson
Bennett	Gurney	Randolph
Bible	Hansen	Scott
Burdick	Hollings	Smith, Ill.
Byrd, W. Va.	Hruska	Sparkman
Cannon	Inouye	Stennis
Cook	Jordan, N.C.	Stevens
Curtis	Long	Talmadge
Dole	Mansfield	Thurmond
Dominick	McClellan	Tower
Eagleton	McGee	Yarborough
Eastland	Metcalf	Young, N. Dak.
Ellender	Miller	

NAYS—45

Aiken	Hart	Nelson
Bayh	Hartke	Pastore
Boggs	Hatfield	Pell
Brooke	Holland	Prouty
Byrd, Va.	Hughes	Proxmire
Case	Jackson	Ribicoff
Church	Javits	Russell
Cooper	Jordan, Idaho	Saxbe
Cotton	Kennedy	Schweiker
Cranston	Magnuson	Smith, Maine
Dodd	Mathias	Spong
Fong	McGovern	Tydings
Goodell	McIntyre	Williams, N.J.
Gore	Mondale	Williams, Del.
Harris	Muskie	Young, Ohio

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Percy, against.

NOT VOTING—7

Anderson	McCarthy	Symington
Fulbright	Mundt	
Goldwater	Packwood	

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the amendment.

Mr. DOLE. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. MONDALE. Mr. President, I rise to——

The PRESIDING OFFICER. Debate is not in order now. The time on the amendment is under control. No time is left for debate.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Is it the ruling of the Chair that the merits of the pending amendment cannot be discussed at this point?

Mr. LONG. Regular order, Mr. President.

The PRESIDING OFFICER. All time on the amendment has been consumed. The question now recurs on agreeing to the amendment.

Mr. MONDALE. I ask unanimous consent that I be given an opportunity to discuss the merits of this amendment.

Mr. TOWER. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 206 Leg.]

Aiken	Gravel	Muskie
Allen	Griffin	Nelson
Allott	Gurney	Packwood
Baker	Hansen	Pastore
Bayh	Harris	Pearson
Bellmon	Hart	Pell
Bennett	Hartke	Percy
Bible	Hatfield	Prouty
Boggs	Holland	Proxmire
Brooke	Hollings	Randolph
Burdick	Hruska	Ribicoff
Byrd, Va.	Hughes	Russell
Byrd, W. Va.	Inouye	Saxbe
Cannon	Jackson	Schweiker
Case	Javits	Scott
Church	Jordan, N.C.	Smith, Maine
Cook	Jordan, Idaho	Smith, Ill.
Cooper	Kennedy	Sparkman
Cotton	Long	Spong
Cranston	Magnuson	Stennis
Curtis	Mansfield	Stevens
Dodd	Mathias	Talmadge
Dole	McClellan	Thurmond
Dominick	McGee	Tower
Eagleton	McGovern	Tydings
Eastland	McIntyre	Williams, N.J.
Ellender	Metcalf	Williams, Del.
Ervin	Miller	Yarborough
Fannin	Mondale	Young, N. Dak.
Fong	Montoya	Young, Ohio
Goodell	Moss	
Gore	Murphy	

The PRESIDING OFFICER. A quorum is present.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Will the Senator suspend until the Senate is in order?

The Senate will be in order, so that we can carry on the business of the Senate.

Senators will take their seats. Staff members also will take their seats.

Mr. KENNEDY. Mr. President, as I understand the parliamentary situation, all time has expired on the amendment that is being debated under a unanimous-consent agreement. Is my understanding correct?

The PRESIDING OFFICER. The Senator's understanding is correct.

Mr. KENNEDY. Does the unanimous-consent agreement that applied to that particular amendment preclude any additional amendment from being offered?

Mr. LONG. A point of order, Mr. President. These are clearly dilatory tactics. The time has expired.

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. LONG. He cannot have the floor, because time for debate has expired.

The PRESIDING OFFICER. A parliamentary inquiry has been propounded. The Chair will answer the question, and then the Senate will get on with the business.

The Chair is ready to announce its ruling.

Mr. LONG. Mr. President, these are dilatory tactics. I demand——

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Massachusetts has the floor.

Mr. LONG. Mr. President, he cannot have the floor because the time for debate has expired.

The PRESIDING OFFICER. The Senator has a parliamentary inquiry which the Chair is trying to answer. If the Senator will be patient we will answer the Senator's question and get on with the business.

The Chair is now ready to announce the ruling. An amendment is in order. However, under the previous ruling of a limitation of time, the offering of an amendment would not permit further debate under this circumstance; and the agreement was that there would be no further debate. So in the opinion of the Parliamentarian, although he cannot find a precedent in the volume on Senate Procedure, he is of the opinion that no further amendment could be offered which would permit further debate.

Mr. KENNEDY. Mr. President, do I understand the Chair correctly that when a unanimous-consent agreement on the limitation of time on one amendment is obtained, that that precludes a limitation, within that definition of time, on the opportunity for the offering of any amendment to that amendment in the future?

The PRESIDING OFFICER. It does unless there is additional time given.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. Mr. President, is it not a fact that in offering unanimous-consent agreements to limit the vote on an amendment, that the normal language in such agreements, to be all-inclusive, have under the traditions of the Senate read something as follows: That it will apply to the amendment and all amendments thereto?

Mr. KENNEDY. It seems to me that is frequently done also. Was it done in this particular case?

The PRESIDING OFFICER. It was not done in this particular case.

Mr. KENNEDY. Can the Presiding Officer inform us the reasons, therefore, that time would not be available on amendments that could be offered at this time?

The PRESIDING OFFICER. The reason would be if you get a unanimous consent to limit debate on a particular amendment there would be no point in such unanimous consent if you are going to open it up again, without limitation, by offering another amendment thereto.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Mr. President, there was a question raised by the Senator from Massachusetts. I understand the yeas and nays have been ordered and we are now ready for the yeas and nays. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Would ordering of the yeas and nays preclude further amendments after that point?

The PRESIDING OFFICER. No, it would not.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. To pursue the inquiry made by the junior Senator from Washington, by inference the Senate has always made it clear in the past that if you are to lock up debate on an amendment it must include amendments thereto because this is the traditional standard language that we have always applied under the precedence of the Senate from many, many years back.

I would suggest if it was the intent, therefore, to include amendments thereto, that the unanimous-consent agreement should have been explicit on this point.

Mr. President, may I have a response? There is a long, long line of unanimous-consent agreements on this very point in which the agreement has been made to include not only the amendment but amendments thereto if it were the intent to stop all debate beyond the amendment itself.

Mr. DOLE. Mr. President, I demand the regular order.

The PRESIDING OFFICER. A parliamentary inquiry has been propounded. The Chair is waiting to reply. The Senator from Washington propounded a parliamentary inquiry.

Mr. METCALF. Mr. President, may I speak on the parliamentary inquiry proposed by the Senator from Washington?

The PRESIDING OFFICER. Yes, the Senator from Montana may be heard for the edification of the Chair.

Mr. DOLE. Mr. President, I demand the regular order.

Mr. METCALF. Mr. President, I concur with the Senator from Washington that in these unanimous-consent requests we close debate, but that does not foreclose the opportunity to offer an amendment on which a rollcall vote could be requested. It would seem to me that if no further debate is allowed, that amendment could be proposed. If a rollcall vote is demanded we could have a rollcall vote on that amendment.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MANSFIELD. Do I understand the ruling of the Chair to be that an amendment to the pending amendment can be offered but that there will be no further debate?

The PRESIDING OFFICER. That is the ruling of the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question is that on the adoption of the amendment—the yeas and nays have been ordered.

The clerk will call the roll.

Mr. JAVITS. Mr. President, Mr. President——

Mr. McINTYRE. Mr. President, I send to the desk an amendment.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The Senate will be in order.

The ASSISTANT LEGISLATIVE CLERK. The Senator from New Hampshire proposes an amendment as follows:

At the end of amendment No. 413 add a new subsection (C) as follows:

"The effect of this amendment shall be limited to persons and corporations where gross annual income does not exceed $3 million."

Mr. WILLIAMS of Delaware. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WILLIAMS of Delaware. Mr. President, yesterday the Senator from Massachusetts had an amendment upon which time was limited.

The PRESIDING OFFICER. May we have order in the Senate. Senators will please take seats. The Presiding Officer cannot hear. Senators will please be seated.

Mr. WILLIAMS of Delaware. Mr. President, yesterday the Senator from Massachusetts had an amendment pending upon which the Senate had a unanimous-consent agreement to limit debate on his amendment. I was going to submit an amendment to the amendment offered by the Senator from Massachusetts. The Chair ruled that would not be in order until after all time had expired. After that time expired I offered my amendment and the Chair ruled we could have debate.

Mr. KENNEDY. The Senator is correct.

Mr. DOLE. Mr. President, I make a point of order against the amendment and ask that I be heard.

The PRESIDING OFFICER. The amendment is in order.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Do I understand that the motion to reconsider was to reconsider the vote on the amendment and amendments thereto?

The PRESIDING OFFICER. The question is on the adoption of the amendment, and now an amendment has been offered thereto.

Mr. MUSKIE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MUSKIE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from New Hampshire.

Mr. MUSKIE. Mr. President, is that amendment debatable?

The PRESIDING OFFICER. It is not debatable.

Mr. MUSKIE. Is the ruling of the Chair subject to appeal?

The PRESIDING OFFICER. Yes, it is.

Mr. MUSKIE. I appeal the ruling of the Chair.

Mr. LONG. Mr. President, I move to lay that on the table.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll and Mr. AIKEN voted in the negative.

Mr. MANSFIELD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Montana will state it.

Mr. MANSFIELD. Will the Chair please ask all of us Senators to take our seats.

The PRESIDING OFFICER. The point is well made. Senators will please take their seats. The Senate is in the process of voting.

Mr. CRANSTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California will state it.

Mr. CRANSTON. I want an explanation as to whether a vote of "yea" is a vote to sustain the ruling of the Chair.

The PRESIDING OFFICER. A "yea" vote is a vote to sustain the ruling of the Chair.

Mr. CRANSTON. I thank the Chair.

Mr. MANSFIELD. Mr. President, will the Chair once again ask us Senators to please take our seats and try to keep reasonably quiet.

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats. The clerk cannot be heard. Senators will please take their seats. The Chair requests once more that Senators please take their seats and please limit conversation while the vote is going on.

Mr. CASE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Jersey will state it.

Mr. CASE. Do I correctly understand that a "yea" vote will sustain the Chair? Or will it reject the ruling of the Chair?

The PRESIDING OFFICER. A "yea" vote will sustain the Chair.

Mr. CASE. Mr. President, I vote "yea."

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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 57, nays 38, as follows:

[No. 207 Leg.]

YEAS—57

Allen	Curtis	Holland
Allott	Dole	Hruska
Baker	Dominick	Javits
Bellmon	Eagleton	Jordan, N.C.
Bennett	Eastland	Long
Bible	Ellender	Mansfield
Brooke	Ervin	McClellan
Burdick	Fannin	McGee
Byrd, Va.	Gore	Metcalf
Byrd, W. Va.	Gravel	Miller
Cannon	Griffin	Montoya
Case	Gurney	Moss
Cook	Hansen	Murphy
Cotton	Hatfield	Pearson

Randolph	Smith, Ill.	Thurmond
Russell	Sparkman	Tower
Saxbe	Stennis	Yarborough
Schweiker	Stevens	Young, N. Dak.
Scott	Talmadge	Young, Ohio

NAYS—38

Aiken	Hughes	Packwood
Bayh	Inouye	Pastore
Boggs	Jackson	Pell
Church	Jordan, Idaho	Percy
Cooper	Kennedy	Prouty
Cranston	Magnuson	Proxmire
Dodd	Mathias	Ribicoff
Fong	McCarthy	Smith, Maine
Goodell	McGovern	Spong
Harris	McIntyre	Tydings
Hart	Mondale	Williams, N.J.
Hartke	Muskie	Williams, Del.
Hollings	Nelson	

NOT VOTING—5

Anderson	Goldwater	Symington
Fulbright	Mundt	

The PRESIDING OFFICER. By this vote, the appeal has been tabled, and the ruling of the Chair has been sustained.

The question now is agreeing to the McIntyre amendment to the Dole amendment.

Mr. McINTYRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. MONDALE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MONDALE. Would a vote in favor of the McIntyre amendment be a "yea" vote?

The PRESIDING OFFICER. Yes, it certainly would. [Laughter.]

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HOLLAND. Mr. President, I ask that the clerk be requested to read the amendment. Many of us were on other Senate business when it was read previously.

The PRESIDING OFFICER. The clerk will state the McIntyre amendment.

The ASSISTANT LEGISLATIVE CLERK. At the end of the amendment offered by the Senator from Kansas add a new section as follows:

The effect of this amendment shall be limited to persons and corporations where gross annual income does not exceed $3 million.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state the parliamentary inquiry.

Mr. DOLE. Is a motion to table the McIntyre amendment in order?

The PRESIDING OFFICER. Yes, it is.

Mr. DOLE. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the McIntyre amendment. The yeas and nays are requested. Is there a sufficient second?

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The Senate will be in order.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, will the Chair once again request Senators to take their seats and lower their voices?

The PRESIDING OFFICER. Will Senators please take their seats and keep conversations to a minimum so that we can complete this rollcall?

The rollcall was resumed and concluded.

Mr. COTTON (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from New Mexico (Mr. ANDERSON). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withdraw my vote.

Mr. LONG (after having voted in the negative). 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 permitted to vote, I would vote "nay." I withdraw my vote.

Mr. McCARTHY (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were free 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 Arkansas (Mr. FULBRIGHT), 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 Senator from New Hampshire (Mr. COTTON) has previously announced his pair.

The result was announced—yeas 39, nays 53, as follows:

[No. 208 Leg.]

YEAS—39

Allott	Ervin	Moss
Baker	Fannin	Murphy
Bellmon	Gravel	Pearson
Bennett	Gurney	Randolph
Bible	Hansen	Russell
Burdick	Hollings	Scott
Byrd, W. Va.	Hruska	Smith, Ill.
Cannon	Jordan, N.C.	Stennis
Cook	Mansfield	Stevens
Dole	McClellan	Talmadge
Dominick	McGee	Thurmond
Eastland	Miller	Tower
Ellender	Montoya	Young, N. Dak.

NAYS—53

Aiken	Hart	Packwood
Allen	Hartke	Pastore
Bayh	Hatfield	Pell
Boggs	Holland	Percy
Brooke	Hughes	Prouty
Byrd, Va.	Inouye	Proxmire
Case	Jackson	Ribicoff
Church	Javits	Saxbe
Cooper	Jordan, Idaho	Schweiker
Cranston	Kennedy	Smith, Maine
Curtis	Magnuson	Sparkman
Dodd	Mathias	Spong
Eagleton	McGovern	Tydings
Fong	McIntyre	Williams, N.J.
Goodell	Metcalf	Williams, Del.
Gore	Mondale	Yarborough
Griffin	Muskie	Young, Ohio
Harris	Nelson	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—3

Cotton, against.
Long, against.
McCarthy, against.

NOT VOTING—5

Anderson	Goldwater	Symington
Fulbright	Mundt	

So the motion to lay Mr. McINTYRE's amendment on the table was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from New Hampshire (Mr. McINTYRE) to the amendment of the Senator from Kansas (Mr. DOLE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COTTON (when his name was called). On this vote, I have a pair with the Senator from New Mexico (Mr. ANDERSON). If he were present and voting, he would vote "nay"; if I were permitted to vote, I would vote "yea." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

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 Senator from New Hampshire (Mr. COTTON) has previously announced his pair.

The result was announced—yeas 74, nays 20, as follows:

[No. 209 Leg.]

YEAS—74

Aiken	Gore	Mondale
Allen	Griffin	Montoya
Baker	Gurney	Moss
Bayh	Hansen	Muskie
Bellmon	Harris	Pearson
Bible	Hart	Pell
Boggs	Hartke	Percy
Burdick	Holland	Prouty
Byrd, Va.	Hollings	Proxmire
Byrd, W. Va.	Hruska	Randolph
Cannon	Hughes	Schweiker
Case	Inouye	Scott
Church	Jackson	Smith, Maine
Cook	Javits	Smith, Ill.
Cooper	Jordan, N.C.	Sparkman
Cranston	Kennedy	Spong
Curtis	Long	Talmadge
Dodd	Magnuson	Thurmond
Dole	Mansfield	Tydings
Dominick	Mathias	Williams, N.J.
Eagleton	McCarthy	Williams, Del.
Ervin	McClellan	Yarborough
Fannin	McGovern	Young, N. Dak.
Fong	McIntyre	Young, Ohio
Goodell	Metcalf	

NAYS—20

Allott	Jordan, Idaho	Ribicoff
Bennett	McGee	Russell
Brooke	Miller	Saxbe
Eastland	Murphy	Stennis
Ellender	Nelson	Stevens
Gravel	Packwood	Tower
Hatfield	Pastore	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Cotton, for.

NOT VOTING—5

Anderson	Goldwater	Symington
Fulbright	Mundt	

So Mr. McINTYRE's amendment to Mr. DOLE's amendment (No. 413) was agreed to.

The PRESIDING OFFICER. The question now occurs on agreeing to the Dole amendment as amended by the McIntyre

amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent to withdraw my request for the yeas and nays.

Mr. PASTORE. Mr. President, I ask for the yeas and nays.

I voted against the last amendment, and I will vote against this one.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LONG (when his name was called). On this vote I have a pair with the Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." I withhold my vote.

Mr. McCARTHY (when his name was called). On this vote I have a pair with the Senator from Arkansas (Mr. FULBRIGHT). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Tennessee (Mr. GORE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. GORE) would 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 "yea."

The result was announced—yeas 58, nays 34, as follows:

[No. 210 Leg.]

YEAS—58

Allen	Ellender	Montoya
Allott	Ervin	Moss
Baker	Fannin	Murphy
Bayh	Fong	Pearson
Bellmon	Gravel	Percy
Bennett	Griffin	Prouty
Bible	Gurney	Randolph
Boggs	Hansen	Scott
Burdick	Harris	Smith, Ill.
Byrd, Va.	Holland	Sparkman
Byrd, W. Va.	Hollings	Spong
Cannon	Hruska	Stennis
Cook	Inouye	Stevens
Cotton	Jordan, N.C.	Talmadge
Curtis	Mansfield	Thurmond
Dodd	McClellan	Tower
Dole	McGee	Yarborough
Dominick	McIntyre	Young, N. Dak.
Eagleton	Metcalf	
Eastland	Miller	

NAYS—34

Aiken	Javits	Proxmire
Brooke	Jordan, Idaho	Ribicoff
Case	Kennedy	Russell
Church	Magnuson	Saxbe
Cooper	Mathias	Schweiker
Cranston	McGovern	Smith, Maine
Goodell	Mondale	Tydings
Hart	Muskie	Williams, N.J.
Hartke	Nelson	Williams, Del.
Hatfield	Packwood	Young, Ohio
Hughes	Pastore	
Jackson	Pell	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Long, for.
McCarthy, against.

NOT VOTING—6

Anderson	Goldwater	Mundt
Fulbright	Gore	Symington

So the Dole amendment, as amended, was agreed to.

Mr. McINTYRE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McINTYRE. Is a motion in order to reconsider the vote by which the amendment was adopted?

The PRESIDING OFFICER. It is.

Mr. McINTYRE. I move to reconsider the vote by which the amendment was adopted.

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

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, could we have some idea as to how many more Senators will offer amendments tonight?

I count eight.

I think we ought to stay as late as we can tonight, in the hope that we can at least get to third reading. It is not a very happy outlook, but I hope that the usual consideration and accommodation of the Members on both sides of the aisle will prevail throughout the early hours of the evening, and that we will be able to get a time limitation on these amendments as they come along.

REQUEST FOR AUTHORIZATION FOR THE COMMITTEE ON THE JUDICIARY TO MEET DURING THE SESSION OF THE SENATE TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. SCOTT. Mr. President, by request, I am constrained to object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAYH. Mr. President, I do not want to have it pass unnoticed that for the second time in 2 days the Committee on the Judiciary has been denied the opportunity to sit. The pending order of business is electoral reform. It has been the pending order of business before the committee since the middle of August.

I think it is critical that the Judiciary Committee have an opportunity to sit and to debate this very important matter. I appreciate the fact that the chairman of the Committee on the Judiciary has made these efforts to try to call the committee. While the Senator from Pennsylvania was the one who objected, my remarks are not directed at him. I am certain that he, as an individual Senator, is not opposed to the committee meeting. He is, in fact, a supporter of electoral reform.

Mr. President, I wish to point out that it has been over a year now since our Presidential election machinery came very close to malfunctioning.

I hope the Senate and the Committee on the Judiciary can take action before we are faced with a catastrophe in 1972.

THE VICE PRESIDENT AND SENATOR GORE

Mr. GORE. Mr. President, at 6 o'clock this morning I was greeted in the morning news by a report of remarks made by the distinguished Vice President of the United States in a speech in Washington last evening in which he referred to me and to my amendment to increase the personal tax exemption.

I consider it a mark of distinction that I am so much in the thoughts of the Vice President these days that he finds occasion to refer to me frequently. I am particularly honored that in his speech last night he said:

> My only thought is that Senator Gore is living up to his name.

The Vice President is too modest; I am practically certain he has had other thoughts. And, to adapt a phrase made famous by another distinguished statesman—if you gave me a week, I might be able to think of one.

In any event, so honored, I hastened to the Capitol for the convening of the Senate. I must confess, Mr. President, that as I strolled across the Capitol grounds beneath the ancient Elms the Vice President was a bit on my mind, too.

The Vice President said, also, that my amendment to increase the personal exemption from $600 to $800 would "pump" $2 billion into the economy. The Vice President is, of course, entitled to his opinion concerning my amendment. So is the President, who has threatened to veto the tax reform bill if my amendment and social security benefit increases approved by the Senate remain in it.

But I think it is important that we keep the record straight.

My amendment would actually cost the Treasury of the United States less money than would the tax relief provisions it replaced, which provisions had the approval of the Nixon-Agnew administration.

Moreover, the Gore amendment proposes to stop the Government from pumping out of people's pockets and pinching taxes out of everybody's paycheck until each taxpayer has a low income allowance of $1,000 plus a personal exemption of $800 for himself and for each of his dependents.

The principle of allowing a taxpayer a fair and reasonable personal exemption before the Government takes part of his paycheck is not new; it is as old as the Federal income tax itself. This is not intended to "pump" money into the economy but, instead, it is permitting a taxpayer to have enough for him and his dependents barely to live on before the Federal Government starts taxing his income.

Now, both the bill as passed by the House of Representatives and the bill approved by the Senate Finance Committee provide tax relief, as does my amendment.

The question at issue is, Who gets it?

The administration proposes to give more relief to those with high income. My amendment is designed to give proportionately more relief to those of low and moderate income—more specifically, to taxpayers with families to raise and support.

On this question I am delighted to join issue. I join, too, on the issue of a 15-percent increase in social security benefits, already approved unanimously by the House Ways and Means Committee and overwhelmingly by the Senate.

Now, Mr. President, the Vice President is denied the opportunity for debate in this forum. This is a privilege with which the people of Tennessee have honored me. But I do not wish to take advantage of our distinguished Vice President.

I respectfully suggest, therefore, that should the Vice President wish to explore these and related questions further and in depth, it might be useful for the distinguished Vice President and the Senator from Tennessee to have a mutual discussion of the issues contained in the Vice President's statement of last evening in another forum. Subjects alluded to by the distinguished Vice President, and which would appear appropriate for public examination, the public interest being acutely involved, would appear to be:

First, the adequacy and fairness of a $600 personal exemption for a taxpayer, for a taxpayer's wife, and for a taxpayer's dependent children;

Second, the relative values and social justices of giving most tax relief to those in the high income brackets or to the mass of our people who are desperately trying to make ends meet; and

Third, interest rates and the cost of living in the Nixon-Agnew administration.

Perhaps we could add the proposed increase in social security benefits in view of the remarks of President Nixon.

Now, if the distinguished Vice President should find a mutual discussion agreeable, then I would respectfully leave entirely to him the choice of place, time, or forum, though I must say I would prefer Tennessee. Should Tennessee be favorably considered, the grass is usually green and the buttercups out about April 15; the foliage golden and beautiful in late October.

Now, the distinguished Vice President, heaping favor upon honor, has made me political target No. 1 for next year, and has promised to come to Tennessee and campaign against me. I am grateful for this promised service. There is nothing the voters of Tennessee appreciate more than having distinguished outsiders come in and instruct them on how to vote.

Since I am sure to be touched by these promised services, neither my gratitude nor my conscience will give me peace of mind if I fail to repay the Vice President in kind. Though it is not normally the function of a member of the opposition party to rise to the defense of a beleaguered public official, in view of all the extenuating circumstances, I do.

He has brought such unique contributions to the high office of Vice President that they deserve recognition.

First of all, the Vice President warrants our gratitude for all that he has done to rejuvenate public usage of the English language.

When in this era of "cool" disdain and sly innuendo have we heard such Churchillian rhetoric as that of the Vice President when he thunders fulminations against "vultures who sit in the trees and watch lions battle," plotting from their treetops to "pervert honest concern into something sick and rancid"? Who can hear such beautiful words without a stirring of the blood, without feeling inspired to sally forth against those "sick and rancid vultures" in our midst. "Their names;" we are moved to cry out.

But poetry is the least of the "Veep's" contributions. Bard though he is, he claims our gratitude even more as a philosopher. He strongly favors, he tells us, "constitutional dissent." But, improving on both Jefferson and Justice Holmes, he is very precise about his limits.

Quite obviously these limits have been exceeded, when elected representatives of the people ask troublesome questions, or when television commentators, who have not even been elected to their jobs, respond to a Presidential speech with critical analysis instead of rhapsodies of praise.

Going on to make one of these "fine distinctions" in which he specializes, the Vice President points out that when the purpose of the dissent is "unsound," or when it is, in his view, "idiotic" as well, the limit of toleration has been reached. Here, Mr. President, a milestone in jurisprudence has surely been reached, the drawing at last of a clear distinction between "constitutional" and "idiotic" dissent.

As a legal and political philosopher, the Vice President has illustrated for each of us—if only we would listen—the kind of "subtlety" and "fine distinctions based on acute reasoning" which we, too, could perhaps make if we would stick to the text of statements, listen respectfully to the teachings of our leaders and stop asking impudent questions about morality, the priority of values and the national interest.

Such things as these, after all, are best left to wiser heads—to such wise and venerable men as the Vice President of the United States and to those who have made such a stunning success of American foreign policy in this decade. Or, better still, as the distinguished Vice President himself has put it:

> Saying that the President should understand the people's view is no solution. It is time for the people to understand the views of the President they elected to lead them.

But elected representatives of the people, in contradistinction to reporters and commentators, are concerned with the drift of things, with seeming misdirection and perhaps a warped sense of values. Some of them, undoubtedly in the mundane process of getting elected, have let their heads get filled with a lot of questions about social justice, about fairness in taxes, about peace and about the sanctity of human life. They are so literal-minded, these impertinent demagogues. In their innocence and naivete, they talk as though that propaganda they picked up from the people, to say nothing of Jefferson and Lincoln and Wilson, were good for something more than inscriptions on stone monuments. Somehow they have got it in their heads that all those fine phrases, even the Bill of Rights in our Constitution, were to be taken seriously, perhaps even put into practice.

And how have our young people become infected with such "idiotic" constitutional radicalism? How have we, their parents and teachers, failed them? The "Veep" has an explanation and it must give us pause. "Parental-type power must be exercised," he points out. "Some parents have forgotten how." As a result of misguided permissiveness our children have fallen under the spell of "political hustlers."

They do not seem to have understood—they do not seem capable of understanding—that one must attain a certain age and eminence before one has earned the right to corrupt one's country's institutions.

Clearly, as the Vice President suggests, "it is time to question the credentials" of these Americans and, perhaps, to "separate them from our society." We separated our Japanese fellow-citizens from our society during World War II, it will be recalled, to our eternal pride and credit.

None of this is meant to suggest that the distinguished Vice President is opposed to dissent as long it is "constitutional," as long as it is not "unsound" or "idiotic" and as long as it does not involve criticism of the President's policies and speeches until the people have time to "digest" them, or does not involve tax policies that are fair to all of our people.

In his short tenure as President of the Senate the Vice President has become a teacher and an example of sorts for his colleagues. He warns us against ideological eunuchry; he urges us to "divide on authentic lines," and he, himself, has made an unparalleled contribution to this end.

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. 353

Mr. McCARTHY. Mr. President, I call up amendment 353 and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McCARTHY. 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 508, after line 20, insert the following new section:

"SEC. 805. INCOME SPLITTING FOR UNMARRIED INDIVIDUALS.

"(a) IN GENERAL.—Section 2 (relating to tax in the case of a joint return) is amended to read as follows:

"'SEC. 2. TAX IN CASE OF INDIVIDUALS ENTITLED TO SPLIT-INCOME COMPUTATION.

"'Except in the case of a married individual filing a separate return, a nonresident alien individual, or an estate or trust, the tax imposed by section 1 on the taxable income of any individual shall be twice the tax which would be imposed if the taxable income were cut in half. For purposes of this section, the determination of whether an

individual is married shall be made as of the close of his taxable year, and an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married.'

"(b) CONFORMING AMENDMENTS.—

"(1) Effective with respect to taxable years beginning after December 31, 1969, and before January 1, 1972, section 1 is amended—

"(A) by striking out so much of subsection (a) as precedes the last table therein and inserting in lieu thereof the following:

"'(a) RATES OF TAX ON INDIVIDUALS.—There is hereby imposed on the taxable income of every individual a tax determined in accordance with the following table:'; and

"(B) by striking out subsection (b).

"(2) Effective with respect to taxable years beginning after December 31, 1970, section 1 (as amended by subsections (a) and (b) of section 803 of this Act) is amended—

"(A) by striking out, in the matter preceding the table in subsection (a), '(other than a head of a household to whom subsection (b) applies and an unmarried individual to whom subsection (c) applies)'; and

"(B) by striking out subsections (b) and (c).

"(3) Section 51(a)(2)(B) (relating to the tax surcharge) is amended to read as follows:

"'(B) LIMITATION.—In the case of—

"'(i) an individual whose tax under section 1 is computed as provided in section 2 and whose adjusted tax for the taxable year is less than $580, and

"'(ii) any other individual (other than an estate or trust) whose tax under section 1 is computed without regard to section 2 and whose adjusted tax for the taxable year is less than $290,

the tax imposed by subparagraph (A) shall not be greater than an amount equal to twice the tax which would be imposed by subparagraph (A) if the tax were imposed on the amount by which the adjusted tax exceeds $290 or $145, respectively.'

"(c) EFFECTIVE DATE.—Except as otherwise provided in subsection (b), the amendments made by this section shall apply to taxable years beginning after December 31, 1969."

Mr. LONG. Mr. President, does the Senator desire the yeas and nays on the amendment?

Mr. McCARTHY. I do.

Mr. LONG. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. LONG. Mr. President, is the Senator willing to limit debate?

Mr. McCARTHY. I am.

Mr. LONG. I ask unanimous consent that time on the amendment be limited to 1 hour, half under the control of the Senator from Minnesota (Mr. McCARTHY) and the other half under the control of the manager of the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Minnesota is recognized.

Mr. McCARTHY. Mr. President, my amendment (No. 353) is cosponsored by the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Indiana (Mr. HARTKE). The purpose of the amendment is to make the same rate of taxation applicable to taxpayers having the same level of taxable income.

The PRESIDING OFFICER. The Senate will be in order. The Chair cannot hear what the Senator is saying. The aisles will be cleared, and Senators will be seated. The Senate will be in order.

The Senator from Minnesota may proceed.

Mr. McCARTHY. Mr. President, the amendment is directed toward both justice and equity and it provides that all citizens will be subject to the same rates of taxation on comparable taxable income whether they are single persons, widows, widowers, married persons, or those unmarried persons who are under existing law classified as head of household taxpayers.

It accomplishes this by making the rates of taxation applicable to married persons filing a joint return available to nearly all taxpayers. It does not increase the rate of taxation on married persons who filed joint returns. It simply extends the benefits of their rates to single taxpayers.

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

Mr. McCARTHY. I yield.

Mr. RIBICOFF. Mr. President, I wish to commend the distinguished Senator from Minnesota for having carried on this fight for many, many years. As the Senator knows this matter has been raised for a long time by a constituent of mine, Miss Vivien Kellems of Connecticut.

To make this situation graphic, is it not true that a married couple with a joint income of $20,000 would pay $4,380 in taxes, but the single person who earned $20,000 and who has about the same expenses as the married couple must pay $6,070 or about 40 percent more than the married couple. Therefore, there is a gross inequity for the single person who works and who also has the expenses of maintaining herself.

Mr. McCARTHY. The Senator is correct. It can run to 40 percent, although there is not that much difference in the lowest brackets.

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

Mr. McCARTHY. I yield.

Mr. COOK. Has the Senator determined what this amendment will cost in relation to income?

Mr. McCARTHY. In relation to income?

Mr. COOK. In relation to income to the Government.

Mr. McCARTHY. It would result in an estimated additional reduction in tax liability of $1.45 billion over and above the $445 million reduction provided by the Finance Committee in its treatment of single persons. This is a substantial amendment. It is worthy of the Senator's attention.

Mr. President, the adoption of the amendment would be a significant step in making the income tax liability of all citizens more equitable.

I have grave doubts whether the existing law as it is drafted and has been in effect is, in fact, constitutional.

The basic method of recognizing family obligations is provided for in the Internal Revenue Code by the allowance for various kinds of deductions. The Senate has now adopted the Gore amendment which increases the amount of the deduction for each dependent. Having made this adjustment in the bill, which recognizes the special expense of maintaining dependents, we should move to provide equity for single persons by adopting this amendment. In fact, the Gore amendment has the effect of increasing the inequity against single persons over and above that which is in the existing law.

This discrimination against single persons has not always been in the Internal Revenue Code. It got in the code almost by accident in 1948 when Congress adopted the income-splitting provision. It was not adopted because it was thought the tax liability of married couples was too great compared with single persons. The income-splitting provision was adopted because of the practical problems of married persons in community property States being treated more favorably. One half of the income of a person is attributed to the other, and there was pressure to extend the consequent more favorable rates available to married couples in community property States to married persons in common law States; and so the income-splitting device available to married couples in States with community property laws was authorized for married persons in common law States.

This change in 1948 seemed to solve the problem for married couples in different States, but the method greatly increased the tax burden on single persons compared to that of married couples filing a joint return. I do not think anyone any longer questions the discrimination against single persons which resulted. The language of the report of the Finance Committee concedes the existence of the problem. As the report states: ". . . a single person's tax is as much as 40.9 percent higher than the tax paid on a joint return with the same amount of taxable income."

Several years ago the Congress attempted to reduce the discrimination for some single persons by creating a head of household category with rates about half way between the more favorable rates for married couples filing joint returns and those for single persons. It improved the situation somewhat for a minority of single taxpayers, but did not diminish the discrimination against the majority of single taxpayers.

The House Committee on Ways and Means considered this inequity in drawing up H.R. 13270 and so did the Senate Committee on Finance. Each committee has proposed a different partial solution, but in my judgment the only satisfactory solution is to remove the inequity altogether, and that is the purpose of this amendment.

The partial remedy adopted by the House is to extend the head of household schedule to widows and widowers, regardless of age, and to unmarried individuals age 35 and over. Also the House bill permits a surviving spouse to receive the full benefits of income splitting accorded to married couples filing joint returns as long as she continues to support a dependent child in her household. I ask unanimous consent to have printed at this point the statement from House report dealing with "head of household and surviving spouse tax treatment."

There being no objection, the state-

ment was ordered to be printed in the RECORD, as follows:

4. Head-of-household and surviving spouse treatment (sec. 803 of the bill and sec. 1 of the code).

Present law.—Since the Revenue Act of 1948, married couples have had the option of being taxed under the split-income provision. This, in effect, taxes a married couple as if it were composed of two single individuals each of whom had one-half the couple's combined income. This 50–50 split of income between the spouses for tax purposes generally produces a lower tax than any other division of income since the application of the graduated tax rates separately to each of the two equal parts comprising the couple's income keeps the total income in lower tax brackets. In effect, the split-income provision achieves this result by allowing married couples who exercise the option of filing joint returns to use a tax-rate schedule with tax brackets twice as wide as those applying to single people and spouses filing separate returns.

As a result of income splitting, married couples pay lower taxes than single people at the same income levels.

In 1951, a head-of-household provision was enacted to grant partial income-splitting to widows, widowers, and certain other single persons with dependents. Individuals who qualify under this provision are allowed approximately one-half of the income-splitting benefits given to married couples. These heads of households use a different tax rate schedule which, at any given level of income, produces a tax liability about halfway between the tax paid by a married couple filing a joint return and a single individual.

General reasons for change.—Widows, widowers, and unmarried individuals who do not support dependents in a household cannot qualify for head-of-household treatment under present law. As a result, such individuals are taxed as single individuals and do not receive the income-splitting benefits accorded to heads of households (that is, one-half the income-splitting benefits granted to married couples filing joint returns). This treatment places unduly heavy tax burdens on mature single individuals, widows and widowers. Such individuals more often than not have to incur the expense of maintaining a household; and in any event they should receive some income splitting in order to be treated fairly compared with married couples. Moreover, for widows and widowers present law is harsh in that it withdraws all the benefits of income splitting after their spouse dies despite the fact that they may continue to have relatively heavy living expenses. Furthermore, your committee believes that the discrepancies in rate between single and married persons are too great. Accordingly, your committee believes some measure of relief with regard to income splitting is warranted for widows, widowers, and mature single individuals.

Present law also does not give adequate income splitting to surviving spouses who support dependent children. It provides full income splitting to such spouses only for 2 years. At the expiration of these 2 years, the surviving spouse may qualify as a head of household if she supports a dependent in her home. However, your committee does not believe this is adequate relief. Since such surviving spouses have the full obligations of a married couple toward their children without the help of a marital partner, they should continue to receive full income splitting.

Explanation of provisions.—Your committee's bill provides that widows or widowers, regardless of age, and unmarried individuals age 35 and over are to be treated as "intermediate tax rate individuals." As such, they will be entitled to receive one-half the income-splitting privileges received by married couples filing joint returns; and their tax liabilities will be halfway between those of other single people and married couples filing joint returns at the same taxable income levels.

In addition, a surviving spouse who maintains a dependent child in her home is no longer to be subject to the present 2-year limit on the full-income-splitting privilege. As a result, such a surviving spouse will continue to receive the full-income-splitting benefits accorded to married couples filing joint returns so long as she continues to support a dependent child in her household.

Effective date.—The amendments made by this provision are to apply to taxable years beginning after December 31, 1969.

Revenue effect.—It is estimated that the amendments made by these provisions will reduce revenues by $650 million for 1971 and thereafter.

Mr. McCARTHY. The approach adopted by the Finance Committee is to establish a new schedule of rates applicable to all single persons, regardless of age, under which the tax of single persons will never be more than 20 percent greater than that of married persons filing a joint return and having the same amount of taxable income. The Finance Committee bill also provides for a new schedule of rates for head of household.

I ask unanimous consent that the statement in the report of the Finance Committee, with its appropriate tables, regarding tax treatment of single persons be printed at this point in the RECORD.

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

3. Tax Treatment of Single Persons (sec. 802 of the bill and sec. 1 of the code).

Present law.—Since the Revenue Act of 1948, married couples have had the option of being taxed under the split-income provision. This, in effect, taxes a married couple as if it were composed of two single individuals each of whom had one-half the couple's combined income. This 50–50 split of income between the spouses for tax purposes generally produces a lower tax than any other division of income since the application of the graduated tax rates separately to each of the two equal parts comprising the couple's income keeps the total income in lower tax brackets. In effect, the split-income provision achieves this result by allowing married couples who exercise the option of filing joint returns to use a tax-rate schedule with tax brackets twice as wide as those applying to single people and spouses filing separate returns.

As a result of income splitting, married couples pay lower taxes than single people at the same income levels.

In 1951, a head-of-household provision was enacted to grant partial income-splitting to widows, widowers, and certain other single persons with dependents in their households. Individuals who qualify under this provision are allowed approximately one-half of the income-splitting benefits given to married couples. These heads of households use a different tax rate schedule which, at any given level of income, produces a tax liability about halfway between the tax paid by a married couple filing a joint return and a single individual.

Beginning in 1954 surviving spouses with dependent children were permitted to use the joint return tax rates with full income-splitting for two taxable years following the death of the husband or wife.

General reasons for change.—The committee conclude that the difference in tax liability between single persons and married couples filing joint returns is too large. Under present law, the tax rates imposed on single persons are too heavy relative to those imposed on married couples at the same income level; a single person's tax is as much as 40.9 percent higher than the tax paid on a joint return with the same amount of taxable income. While some difference between the rate of tax paid by single persons and joint returns is appropriate to reflect the additional living expenses of married taxpayers, the existing differential of as much as 41 percent which results from income-splitting cannot be justified on this basis.

The committee concluded that the proper solution to the tax differential between married and single taxpayers is a new single person rate schedule that insures that the tax of single persons will never be more than 120 percent of that of married taxpayers with the same amount of taxable income.

Explanation of provision.—The Committee amendments provide a new, lower, rate schedule for single persons (as well as a new regular rate schedule and head-of-household rate schedule) shown in Table 20. This rate schedule is designed to provide tax liability for single persons which is 17 to 20 percent above that of married couples for taxable incomes of between $14,000 and $100,000, with the maximum differential of 20 percent being reached at $20,000. (See col. 7 of Table 21 below.) Below $14,000, where income-splitting is less beneficial, the excess of the single person's rates over those of married couples gradually decreases. This is also true above $100,000, again where the benefits of income-splitting become less significant.

The committee amendments also provide a new rate schedule for heads of households which is halfway between the new rate schedule for single persons and the rate schedule used by married couples (the "regular" rate schedule with brackets twice as wide). The "regular" rate schedule is maintained for married couples filing separate returns and for estates and trusts. The rates in all schedules reflect the general rate reduction provided elsewhere in the bill.

TABLE 20.—SENATE FINANCE COMMITTEE RATE SCHEDULES (TO BE EFFECTIVE IN 1972)

Taxable income bracket	Regular rate schedule [1]	Head-of-household rate schedule [2]	Single person rate schedule [3]
0 to $500	13	13	13
$500 to $1,000	14	13	14
$1,000 to $1,500	15	15	15
$1,500 to $2,000	16	15	16
$2,000 to $4,000	18	17	18
$4,000 to $6,000	21	19	20
$6,000 to $8,000	23	20	22
$8,000 to $10,000	27	22	24
$10,000 to $12,000	30	23	26
$12,000 to $14,000	34	25	28
$14,000 to $16,000	37	27	30
$16,000 to $18,000	40	29	32
$18,000 to $20,000	42	31	34
$20,000 to $22,000	44	32	35
$22,000 to $24,000	47	34	37
$24,000 to $26,000	47	36	37
$26,000 to $28,000	49	38	42
$28,000 to $32,000	49	40	42
$32,000 to $36,000	50	43	47
$36,000 to $38,000	50	45	47
$38,000 to $40,000	52	47	52
$40,000 to $44,000	52	48	52
$44,000 to $50,000	54	50	54
$50,000 to $60,000	58	54	58
$60,000 to $80,000	60	55	60
$80,000 to $100,000	61	57	61
$100,000 to $120,000	62	60	62
$120,000 to $150,000	63	62	63
$150,000 to $160,000	64	62	64
$160,000 to $200,000	64	63	64
$200,000 to $300,000	65	64	65
Over $300,000	65	65	65

[1] This schedule is in the House bill.
[2] Available to taxpayers who qualify for head-of-household status.
[3] Schedule for all single persons and widows and widowers.

TABLE 21.—TAX LIABILITY FOR JOINT RETURNS AND SINGLE PERSONS AT SELECTED LEVELS OF TAXABLE INCOME, AT RATES PROPOSED TO BE EFFECTIVE IN 1972

Taxable income	Tax liability under House bill					Senate Finance Committee, single persons			
				Single, 35 and over					
	Joint returns [1]	Single under 35	Percent above joint return	Tax	Percent above joint return	Tax	Percent above joint return	Percent different from House for singles over 35	Percent different from House for singles under 35
$2,000	$270	$290	7.4	$280	3.7	$190	7.4	+5.7	0
$4,000	580	650	12.1	620	6.9	650	12.1	+4.8	0
$6,000	940	1,070	13.8	1,000	6.4	1,050	11.7	+5.0	−1.9
$8,000	1,300	1,530	17.7	1,420	9.2	1,490	14.6	+4.9	−2.6
$10,000	1,720	2,070	20.3	1,900	10.5	1,970	14.5	+3.7	−4.8
$14,000	2,600	3,350	28.8	2,980	14.6	3,050	17.3	+2.3	−9.0
$18,000	3,600	4,890	35.8	4,240	17.8	4,290	19.2	+1.2	−12.3
$20,000	4,140	5,730	38.4	4,940	19.3	4,970	20.0	+.6	−13.3
$26,000	6,026	8,490	41.0	7,260	20.6	7,150	18.8	−1.5	−15.3
$32,000	8,180	11,430	39.7	9,800	19.8	9,670	18.2	−1.3	−15.8
$38,000	10,620	14,430	35.9	12,520	17.9	12,490	17.6	−.2	−13.4
$44,000	13,220	17,550	32.8	15,380	16.3	15,610	18.1	+1.5	−11.4
$50,000	16,040	20,790	29.6	18,440	15.0	18,850	17.5	+2.2	−9.0
$100,000	41,580	50,790	22.2	46,140	11.0	48,850	17.5	+5.9	−3.3
$150,000	71,180	82,090	15.3	76,740	7.8	80,150	12.6	+4.4	−2.8
$200,000	101,580	114,090	12.3	108,140	6.5	111,650	9.9	+3.2	−2.4
									1

[1] Under Senate Finance Committee bill, as well.

The committee agrees with the House that the tax differential between single and married taxpayers is excessive but does not believe that the differential should be reduced only for single persons age 35 and over (and widows and widowers) as provided in the House bill. This age 35 test seems arbitrary and unrelated to the basic issue of whether there is too great a tax difference between single and married taxpayers resulting from marital status. In additional, there is good reason for maintaining a tax differential between single persons and heads-of-households who in fact maintain a household for a dependent. This distinction would, of course, be eliminated under the House bill. In view of these considerations, the committee substituted for the House provision the rate schedule which limits the tax paid by all single persons regardless of age to no more than 120 percent of the tax paid by married taxpayers at the same taxable income level.

Revenue effect.—The revenue loss from this provision is $445 million annually. The revenue cost of the rate schedule for single persons in the House bill would be $650 million.

Effective date.—The new rate schedule for single persons is effective in two stages, in 1971 and 1972, with over one-third of the reduction from present rates to take place in 1971 and the remainder in 1972 (as is also the case with the general rate reduction).

Mr. McCARTHY. The joint committee has prepared a table with estimates of the revenue loss under this amendment, compared to revenue losses under the Finance Committee treatment of single persons. They estimate that this amendment would reduce individual income tax liability by $1.45 billion more than the $445 million reduction estimated under the Senate Finance Committee treatment of single persons.

I ask unanimous consent that this table be printed in the RECORD.

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

FEDERAL INDIVIDUAL INCOME TAX ESTIMATED ADDITIONAL REDUCTION IN TAX LIABILITY OVER THE $445 MILLION REDUCTION UNDER SENATE FINANCE COMMITTEE TREATMENT OF SINGLE PERSONS FROM APPLICATION OF JOINT RETURN TAX SCHEDULE TO SINGLE PERSON AND HEAD OF HOUSEHOLD RETURNS

Adjusted gross income class (thousands)	Single persons		Head of household		Total	
	Number of returns (thousands)	Reduction in tax liability (millions)	Number of returns (thousands)	Reduction in tax liability (millions)	Number of returns (thousands)	Reduction in tax liability (millions)
0 to $3	3,007	$14	100	(1)	3,107	$14
$3 to $5	6,080	159	530	$7	6,610	166
$5 to $7	2,971	188	548	16	3,519	204
$7 to $10	2,782	314	145	8	2,927	322
$10 to $15	873	179	211	27	1,084	206
$15 to $20	201	103	51	19	252	122
$20 to $50	205	231	39	37	244	268
$50 to $100	20	63	6	14	26	77
$100 and over	9	66	2	7	11	73
Total	16,148	1,317	1,632	135	17,780	1,452

[1] Less than $500,000.

Mr. LONG. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. LONG. Mr. President, the compelling reason why we should not agree to this amendment is that it would increase the revenue loss under the bill by $1.5 billion. I personally saw the President on television say that he would veto this bill if it lost the Government as much revenue as it does now, referring to the two big items by which the expense of the bill had been increased at that time.

If we were to take the amendment, and the House were to agree to it, it seems to me it would guarantee a veto of the bill.

On the merits of the amendment, it is true that the costs for one person living alone are more than one-half as much as for two people living together. At the same time that logic does not extend to saying it costs twice as much. After having studied the problem, we have undertaken to help the single person by providing that his tax rate would be no more than 20 percent above the rate that applies to a married couple with the same taxable income.

The cost of that provision is $445 million. That is about as far as we think we can go and still act responsibly at this time. It would further seem that we should let this provision that provides some tax relief to single people go into effect. At some future date perhaps we will be able to afford to extend additional tax relief to them.

We cannot afford it now. To add this amendment might result in their not getting the favorable tax treatment already in the bill. It amounts to $445 million. It would be in the best interest of single people to have this amendment put in the bill because it might result in preventing them from getting any relief.

Mr. WILLIAMS of Delaware. I completely agree with the Senator from Louisiana. Single people would get $445 million in tax relief under the bill. There is no question in my mind that if the amendment would be agreed to and placed in the bill that they would get no relief at all. Unless we can trim back the bill as it is now, we will not have any bill to consider at all.

Mr. LONG. It seems to me that should this amendment carry, it would make it even harder to cut back on the amount of tax relief to the amount the committee felt could be afforded in any event.

I hope that the amendment will be rejected.

Mr. McCARTHY. I hope that the distinguished chairman will not be frightened by the threat of a Presidential veto. He has never shown any inclination along that line before on other amendments to the bill. I would suggest that the Senator would not want to make that as a statement or argument in the Senate today because it would undermine his whole record.

I do not think the Senator from Louisiana has ever voted for a tax increase—or when we proposed to cut taxes—that he brought up the question that a veto would be threatened. The Senator from Louisiana has never before been intimidated——

Mr. LONG. Let me say to the Senator from Minnesota that the bill we have now gives a lot more in tax relief than it would take from tax reform. I do not regard it as a tax increase bill in its present status.

But I do not believe that the Senator's amendment should be agreed to on its merits. I applaud his interest in the problems of single people. For years, he has been trying to help them, but it seems to me that we have gone about as far as the Senate should be asked to go at this time. I believe that the amendment should be rejected.

Mr. McCARTHY. I would suggest to the Senate that the point on which the administration seems distressed is the question of revenue. It does not want the Senate to take irresponsible fiscal action.

Requests for military expenditures and military appropriations are fiscal irresponsibility in two ways. First, it involves an increase in the national debt and in Federal expenditures which is inflationary; and, two, it also involves most wasteful expenditures.

Those who have been voting for these appropriations over the past 20 years know that billions of dollars in military expenditures have been spent which have been militarily useless. We know that an increase in Government expenditures for military purposes is in itself wasteful. Perhaps the only way we can bring the Department of Defense and the administration to some sense of reality—we cannot do it with an authorization which we approve and we have not been able to do it by cutting down appropriations—is to follow the practice of British nobility during the Middle Ages, to stop their kings from invading France, or Normandy, or carrying on attacks on Ireland, and that was not to give them any tax money. So that finally they had to either give up the crown or give up military action.

Mr. LONG. I am familiar with the Senator's views, with regard to military expenditures, the war in Vietnam, and so forth, but I believe that the Senate is anxious at this time to vote on the bill. I shall, therefore, just speak to the amendment and perhaps we can debate those other matters at some future time.

Mr. President, I yield back the remainder of my time.

Mr. MCCARTHY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

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 Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from Missouri (Mr. SYMINGTON). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Missouri would 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.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

On this vote, the Senator from Alaska (Mr. STEVENS) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Alaska would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 25, nays 66, as follows:

[No. 211 Leg.]

YEAS—25

Bayh	Inouye	Pearson
Burdick	Jackson	Prouty
Byrd, W. Va.	Magnuson	Proxmire
Church	Mansfield	Randolph
Cranston	McCarthy	Ribicoff
Dodd	McGee	Young, N. Dak.
Hart	McGovern	Young, Ohio
Hartke	Moss	
Hughes	Nelson	

NAYS—66

Aiken	Fong	Mondale
Allen	Goodell	Montoya
Allott	Gore	Murphy
Baker	Gravel	Muskie
Bellmon	Griffin	Packwood
Bennett	Gurney	Pell
Bible	Hansen	Percy
Boggs	Harris	Saxbe
Brooke	Hatfield	Schweiker
Byrd, Va.	Holland	Scott
Cannon	Hollings	Smith, Maine
Case	Hruska	Smith, Ill.
Cook	Javits	Sparkman
Cooper	Jordan, N.C.	Spong
Cotton	Jordan, Idaho	Stennis
Curtis	Kennedy	Talmadge
Dole	Long	Thurmond
Dominick	Mathias	Tower
Eagleton	McClellan	Tydings
Ellender	McIntyre	Williams, N.J.
Ervin	Metcalf	Williams, Del.
Fannin	Miller	Yarborough

NOT VOTING—9

Anderson	Goldwater	Russell
Eastland	Mundt	Stevens
Fulbright	Pastore	Symington

So Mr. MCCARTHY's amendment was rejected.

CHANGE FROM INSTALLMENT TO ACCRUAL METHOD OF ACCOUNTING

Mr. LONG. Mr. President, I have an amendment at the desk which I call up at this point.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of title IX, add the following new section:

"SEC. —. (a) Section 453(c) of the Internal Revenue Code of 1954 (relating to change from accrual to installment basis of reporting) is amended by adding at the end thereof the following new paragraph:

"'(4) REVOCATION OF ELECTION.—An election under paragraph (1) to report taxable income on the installment basis may be revoked by filing a notice of revocation, in such manner and place as may be set forth in regulations or rulings prescribed by the Secretary or his delegate, at any time before the expiration of 3 years following the date of the filing of the tax return for the year of change. If such notice of revocation is timely filed—

"'(A) the provisions of paragraph (1) and subsection (a) shall not be applicable to the year of change or for any subsequent year;

"'(B) the statutory period for the assessment of any deficiency for any taxable year ending before the filing of such notice, which is attributable to the revocation of the election to use the installment basis, shall not expire before the expiration of two years from the date of the filing of such notice, and such deficiency may be assessed before the expiration of such two-year period notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment; and

"'(C) if refund or credit of any overpayment, resulting from the revocation of the election to use the installment basis, for any taxable year ending before the date of the filing of the notice of revocation is prevented on the date of such filing, or within 1 year from such date, by the operation of any law or rule of law (other than section 7121 or 7122), refund or credit of such overpayment may nevertheless be made or allowed if claim therefor is filed within 1 year from such date. No interest shall be allowed on the refund or credit of such overpayment for any period prior to the date of the filing of the notice of revocation.'

"(b) The amendment made by subsection (a) shall apply to an election made for any year of change (as defined in section 453 (c)(1) of the Internal Revenue Code of 1954) ending on or after the date of the enactment of this Act, and shall also apply to any such year of change which ended before such date if the 3-year statutory period for assessment of any deficiency for such year has not expired on the date of the enactment of this Act."

Mr. LONG. Mr. President, the amendment I have offered is one which I would have offered in committee, except that I was waiting for the Treasury to report on it, though I did not see how the Treasury could possibly report adversely.

This amendment would permit a taxpayer to change from the installment to the accrual method of accounting.

I know of but one taxpayer who would be involved, and by changing from the installment to the accrual method of accounting, that taxpayer would pay $49,972 in additional taxes, but he finds it very inconvenient to do business under the installment method of accounting, and therefore would like to change.

I know of no objection to the amendment. I have discussed it with the senior members of the committee—and, in fact, with almost all the members of the committee—and I believe the amendment would have been unanimously agreed to by the committee if the Treasury had reported to us in time, or if I had been able to state the Treasury's views. Not having had that opportunity, I have to either offer it now or forever hold my peace. I hope the amendment will be agreed to.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. WILLIAMS of Delaware. The Senator is correct; he withheld the amendment from the committee until he had talked with the Treasury. I have no objection to the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. LONG. Mr. President, the one taxpayer I mentioned who would be effected is Mr. Meyer Barton of New Orleans, La. I ask unanimous consent to have printed in the RECORD a statement explaining the purposes of the amendment.

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

ELECTION TO CHANGE FROM INSTALLMENT TO ACCRUAL METHOD OF ACCOUNTING

Installment reporting for federal income tax purposes has been recognized as a proper method of tax accounting since the Revenue Act of 1921. In 1925, the Board of Tax Appeals held, however, that installment reporting did not clearly reflect income. The 1926 act authorized and validated installment reporting both for future and past taxable years. The purpose of allowing this method was to more closely match tax liability with cash flow, thus, reducing the

harshness of the immediate tax bit. This action was another step in bringing tax accounting into agreement with generally accepted accounting principles.

The accounting profession continued to recognize installment reporting as proper accounting through December 1966. However, an opinion, dated December 1966, of the Accounting Principles Board stated that the installment method of recognizing revenue is no longer acceptable except in exceptional cases where receivables are collectible over an extended period of time and because of the terms of the transactions or other conditions, there is no reasonable basis for estimating the degree of collectibility. The essence of this opinion is to require accrual reporting for accounting periods beginning after December 31, 1966. Taxpayers who have elected to report on the installment basis for tax purposes are now required to maintain sufficient records to satisfy two methods of reporting. Another recent opinion (dated December 1967) of the Accounting Principles Board requires taxes to be accrued as a deferred liability on revenue which is reported on the financial statements even though a large portion of this revenue is deferred for tax reporting purposes. This requirement can result in a firm showing a large deferred tax liability resulting in a large tax expense being shown on the income statement which will result in a material reduction in the firm's financial net income. This depressed financial picture would well hamper a firm's efforts to secure the necessary working capital needed to continue its present level of operations. In these situations, it would be virtually impossible to obtain working capital which would be needed to expand operations. In several cases, firms can rectify this situation by reverting from installment reporting to accrual reporting for federal income tax accounting.

Section 453 of the Internal Revenue Code of 1954 does not preclude revoking the election to report on the installment basis. However, the Internal Revenue Service has been reluctant to allow revocation of the election since section 453 does not specifically provide for such an election. In one instance, the Internal Revenue Service has refused to grant an election for revocation even though the firm would pay $43,972 in additional taxes in the year of revocation if allowed, and even though there would be increased additional taxes in each year thereafter for as the firm continues to grow. The required changes in acceptable accounting principles coupled with the indecisive position of the Internal Revenue Service necessitates statutory action to remedy a hardship which could be detrimental to several small and medium size merchandising firms which have elected the installment basis of reporting before becoming aware of the effect of the changes made by the Accounting Principles Board.

Let me now deal specifically with the changes which would be made by the bill which I am introducing at this time.

Section 453 of present law allows a taxpayer to elect the installment method of reporting without permission to change accounting methods in the following situations:

(a) upon the sale of personal property on an installment plan by dealers;

(b) upon the sale or other disposition of real property, providing that payments in the year of sale do not exceed 30 percent of the selling price;

(c) in the case of a casual sale or casual disposition of personal property providing the price exceeds $1,000 and the payments in the year of sale do not exceed 30 percent of the selling price.

A taxpayer who changes his accounting method from the accrual to the installment method pays a double tax on certain income. Under the accrual method, the entire profit from a sale is taken into account in the year of sale, regardless of when the collection is made. The installment method requires that the profit from a sale be recognized ratably as the cash is collected. In the early years following a change from the accrual to the installment method, profit recognized under the installment method is taxable despite the fact that this same profit previously had been reported as taxable income under the accrual method. To preclude this profit from being taxed twice, the tax attributable to an amount included in income for the second time is eliminated or at least decreased to the extent of the tax attributable to its inclusion under the earlier method of accounting.

Although the Internal Revenue Code does not preclude change to some other method of accounting from the installment method, Treasury regulations on section 453 state that a dealer may not change from the installment plan to the accrual method or to any other method of accounting without the permission of the Commissioner. However, neither the Internal Revenue Code nor the related regulations allow for, or preclude, retroactive revocation of the election to report on the installment method.

The bill I am today introducing corrects this type of situation. It amends section 453(c) of the Internal Revenue Code by allowing a taxpayer to revoke an election to report on the installment basis by filing a notice of revocation. The Secretary or his delegate shall describe by regulations or rulings the method by which the "revocation of election" is to be made. The election to revoke must be made within three years following the date of the filing of the tax return for the year that the election to file on the installment method was made. A timely filed revocation applies to the year that installment reporting was elected plus all subsequent years. The statutory period for the assessment shall extend for two years following the date of the filing of the notice of revocation. Interest will not be allowed on refunds paid or credits due as a result of filing an election of revocation. The election to revoke shall apply to all open years under the statutory period for assessment.

AMENDMENT NO. 387

Mr. COOPER. Mr. President, for myself and my colleague from Kentucky (Senator COOK) I call up amendment No. 387, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

On page 198, line 12, strike out the figure "5" and insert in lieu thereof the figure "7".

Mr. COOPER. Mr. President, I ask unanimous consent that a summary and explanation of the amendment No. 387 as introduced be included at this point in the RECORD.

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

AMENDMENT NO. 387

Summary: The Committee bill would establish a presumption that an individual is engaged in an activity for profit, and therefore not subject to the "hobby loss" provision prohibiting the deduction of losses resulting from that activity, if the activity shows a profit in 2 out of 5 years. The amendment No. 387 would establish that presumption if the activity shows a profit in 2 out of 7 years. The purpose of the amendment is to allow a reasonable time for activities having a long cycle of investment and a recognized element of risk, such as thoroughbred breeding and training, to meet the test required by the Committee bill.

Explanation: Section 213 of the Senate Committee substitute for H.R. 13270 would *disallow* deductions for losses from an activity "not engaged in for profit." This provision is much more stringent than the existing "hobby loss" provision (section 270) which limits to $50,000 per year the losses that can be used to offset other income, but imposes that limitation only when such losses exceed $50,000 for *each* of five consecutive years.

Section 213 also establishes a presumption (paragraph (d) page 198) that the taxpayer is engaged in business for a profit if the gross income from the activity exceeds deductions attributable to the activity in 2 out of 5 consecutive years. If this test is not met (or if the Secretary or his delegate establishes that the activity is not engaged in for profit) losses may *not* be used to offset other income. If the test *is* met, in the case of *farm* losses, section 211 of the bill then applies. Section 211 in general limits to $25,000, plus one-half of the amount over $25,000, the losses which may be used to offset other income. The Senate on Saturday rejected the Metcalf and the Miller-Metcalf amendments which would have further limited farm losses allowable as deductions.

Amendment No. 387 would in no way change the tax liability of individuals engaged in the business of farming and subject to section 211, which imposes limitations on deductible farm losses and which has evidently been settled upon by the Senate. It would make subject to those limitations individuals having a profit from farm operations in 2 out of 7 years, in addition to those having a profit in 2 out of 5 years.

Farm operations which did *not* show a profit in 2 out of 7 years (and in any case those determined by the Secretary as not engaged in for profit) would not meet the presumption, and would be subject to section 213, the stringent new "hobby loss" provision recommended by the Committee which prohibits *any* losses to be used to offset other income.

Need for the amendment: The breeding, training, showing and racing of horses is an important business in Kentucky and 26 other States. Testimony before the Committee estimated: Capital investment in horse breeding, equipment and facilities of $543 million; value of commercial horses of $1.1 billion; total capital investment $2.34 billion. Labor for breeding, training and showing commercial horses provides 150,000 full-time jobs, total annual wages $727 million. USDA estimates horse owners spend $5 billion annually for feed and equipment. The number of registered horses (1.2 million) doubled in last 8 years—832,000 recreational and 428,000 commercial registered horses. At the heart of this great industry is the breeder, who is engaged in a long-cycle operation of recognized uncertainty, often requiring investment over several years of funds from other sources.

Example of cycle in horse business: A person entering or established in the thoroughbred business may purchase breeding stock in 1969, in the hope of making successful matings and producing a popular line. Bred in the Spring of 1970, the mares would foal beginning in late February and through May of 1971. The foals would become yearlings, according to the horse calendar, on January 1, 1972. They would be trained and may try out as two-year-olds in 1973, but would not seriously race until three-year-olds (as in the Kentucky Derby) in 1974. Only then—in the *sixth* consecutive year counting the year breeding stock was purchased and plans made in 1969—would the result of that breeding begin to be proved. Under the favorable assumption that a new breeder is skillful, and successful in producing winners and desirable stock, that would be his first profitable year in six and it would require seven years, as provided by the amendment, to meet a

presumption that he is in business for a profit.

Even for established breeders, it could easily happen that there would be no profit for four consecutive years—or perhaps a profit only every third year—which would make it impossible for him to meet the presumption required by the Senate bill. A single breeding mistake—selection of a line which does not prove popular, or the wrong judgment in matching studs and mares—will not be known until the offspring begin racing as two or three-year-olds, in the fourth or fifth consecutive year, at which point the breeder must change lines and start over. Reliable thoroughbred breeders have indicated that while the industry may be able to live with the new Committee farm loss restrictions imposed by Section 211, and is willing to accept the "hobby loss" provision prohibition the deduction of losses by those not engaged for a profit, the long cycle of horse breeding and training operations requires that the presumption established by paragraph (d) of Section 213 be extended to seven years.

Mr. COOPER. Mr. President, if I may have the attention of the distinguished chairman of the committee and manager of the bill (Mr. LONG), and also the attention of the Senator from Georgia (Mr. TALMADGE) and the Senator from Delaware (Mr. WILLIAMS), I shall modify my amendment. I expect that my amendment can be disposed of in a reasonable time.

If Senators will follow the bill as printed, my modification, which I offer in lieu of the amendment as printed, is self-explanatory.

I modify my amendment to read as follows:

Page 198, line 18, before the closing quotation marks, insert the following new sentence: "In the case of an activity which consists in major part of the breeding, training, showing, or racing of horses, the preceding sentence shall be applied by substituting the period of 7 consecutive taxable years for the period of 5 consecutive taxable years."

Senators will recall that section 211 of the tax reform bill provides a procedure by which, under certain conditions, farm losses may be offset against nonfarm income. Section 211 was thoroughly debated last Saturday when an amendment was offered by the Senator from Montana (Mr. METCALF), and later another amendment was offered by the Senator from Iowa (Mr. MILLER). In both cases the Finance Committee provision was ably sustained by the Senator from Georgia (Mr. TALMADGE) and the Metcalf-Miller amendments, were rejected.

I wish to make it clear that the amendment I offer today does not disturb section 211 in any way. It is directed to section 213 of the bill. As Senators will remember, the title of section 213 is "Deductions Attributable to Activities Not Engaged in for Profit."

The Committee on Finance, interpreting section 213 in their report said, in effect, that they would consider all businesses to be engaged in for profit—and I think this correct—but unless a profit were made in 2 out of 5 consecutive years, a rebuttable presumption would arise that the business was not engaged in for profit.

The relation of my amendment to section 211 is this: Before a person engaged in a business under section 213 may claim the advantages of section 211, he or she must, in their business, have a profit in 2 out of 5 years.

My amendment applies to horses. Of course it does apply to racing horses, but I point out to Senators that it applies to all horses. It applies to running horses—thoroughbreds which, of course, are bred in Kentucky, as well as in other States. It applies to harness horses, trotters, and pacers; to saddle horses, 3-gaited and 5-gaited riding horses and Tennessee walking horses; to quarter horses; Appaloosas; and to the draft horses which are still bred for show—the Belgian, the Percheron, and the Clydesdale.

So, as far as racing horses are concerned, this amendment is of great importance to Kentucky and 26 other States. But when you consider it in terms of breeding horses for pleasure riding and for show as well as for racing, it probably involves nearly every State in the Union.

Why do I offer the amendment? I do not ask for any special privilege. I think Senators will recognize this when I make the explanation. I do not ask for any privilege for the breeders of racing horses or any other horse. I point out that section 278(e)(4)(A) added by section 211 of the bill provides that "in the case of a taxpayer engaged in the raising of horses, the business of farming includes the racing of horses." By extending the period to 7 years, we simply ask that horse breeders be given a reasonable opportunity to claim the benefit of section 211, as all other farmers may do, and I shall make clear why this period of time is necessary.

Mr. President, section 211 which deals with businesses not engaged in for profit, applies to any kind of activity. People may have art galleries or antique shops. There are all kinds of business activities which are engaged in, and not necessarily for profit but perhaps for their pleasure, perhaps also for a tax offset of losses. The section seems to me properly directed to such activities.

But it is almost impossible for anyone seriously engaged in the horse breeding business to have a profit in 2 years out of 5. I will explain why.

I will give an example of the breeding of a thoroughbred race horse, which would also be applicable to a standard bred harness horse and, I would assume, to a show horse. Suppose a person wants to engage in the breeding of fine horses. He buys stock; he buys a mare, say, in 1969. That is the first of the consecutive years in which he has expenses and perhaps losses.

The mare would be bred in the spring of 1970, in the second tax year. In 11 months a foal is born in March or April of 1971. That is the third year. The colt or filly remains a foal through 1971.

On the first day of January 1972, the foal is designated a yearling. All racing horses have the same birthday—January 1—and as far as this yearling is concerned, 1972 would be the 4th year of expenses.

In 1973, it becomes a 2-year-old, in the 5th tax year. There is some racing of 2-year-olds in this country, but the breeder cannot determine their class, or really their ability until they are 3 years old. That would be in 1974, the sixth year.

So it is only in the sixth consecutive year—after 6 years of work and expense maintaining and training the colt that results are known and, with skill and good fortune, that a profit may be made.

In this business, a single breeding mistake, the selection of a line which is not popular, the crippling of a horse, or any of a number of other risks, could ruin the breeding and training process.

I point out that this long cycle of investment is applicable not only to thoroughbred racing horses, but also to harness horses, and to a degree to show horses and other types of horses such as those bred for riding—"pleasure horses" as we call them—or for profit.

This is an important industry in my State and in other States. The commercial horse industry as a whole has an investment of over $2 billion in the United States. It pays, I think, something like one-half billion dollars in taxes.

I know it brings about $50 million a year to Kentucky. Moreover, in 27 States breeding, training, racing, and showing of horses provides 150,000 full-time jobs. It is a legal business, and recognized throughout the United States and the world.

UNANIMOUS-CONSENT AGREEMENT

Mr. LONG. Mr. President, would the Senator be willing to limit debate?

Mr. COOPER. I would be agreeable.

Mr. LONG. Mr. President, I ask unanimous consent there be a time limitation of 30 minutes on the remainder of the debate on the pending amendment, the time to be equally divided between the manager of the bill or those in opposition and the Senator from Kentucky.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. COOPER. Mr. President, I have almost finished.

I simply want the Senate to be fair and give this farm industry, which is tied down by a 5-year breeding and training cycle, a chance to make a profit. In 2 years out of 5, it is not likely that one can do it. We ask for 2 years out of 7. And I think that is fair.

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

Mr. COOPER. I yield.

Mr. CURTIS. Mr. President, I support the amendment of the Senator from Kentucky.

The raising of horses is a business. And they want it to be treated as a business and not as a hobby.

There are other ways in which the Internal Revenue Service can reach the abuses. But these people are in a business for a profit. And they should be treated like all other taxpayers. Under the present law and under the committee bill they are not.

Mr. President, I support the amendment.

Mr. COOPER. Mr. President, I thank the Senator for Nebraska—a ranking member of the Finance Committee.

Mr. President, I yield to the senior Senator from Maryland.

Mr. TYDINGS. Mr. President, I support the amendment of the distinguished Senator from Kentucky. As he pointed out, there are some 30 States which now have parimutuel racing. And racing provides a major source of revenue for many States.

Certainly it is an important source of revenue for my State. I know that it is also an important source of revenue for the State of Kentucky and for other States.

I think that for Congress to take action to deprive the States of tremendous sources of revenue in a period when we are trying to stress federalism and State responsibility and State initiative would be a great mistake.

I am delighted to add my voice along with many of my colleagues in support of the amendment of the Senator from Kentucky.

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

Mr. COOPER. Mr. President, I yield to my colleague.

Mr. COOK. Mr. President, I associate myself with the remarks of my senior colleague from Kentucky.

I would like to add that the racing business also involves a tax procedure to the extent that those who participate in the parimutuel races pay taxes in that they raise for the United States somewhere in the neighborhood of $500 million.

I think the case has been laid out well by my colleague.

I reiterate that I associate myself with his remarks.

Mr. COOPER. Mr. President, I thank my colleague, and especially for his fine sponsorship and support.

I yield to the junior Senator from Maryland.

Mr. MATHIAS. Mr. President, I thank the Senator from Kentucky for yielding. I associate myself with his remarks.

The sportswriters sometimes call horseracing the sport of kings. That may well have been true through years gone by. However, today it is a very important element of income for many of the States.

I think the amendment of the distinguished Senator from Kentucky recognizes the modern fact of life that racing does play an important role which has significance to the smallest taxpayers of the States.

The Senator's amendment, I think, is worthy of support on that basis.

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

Mr. COOPER. I yield.

Mr. TOWER. Mr. President, would the Senator's amendment extend to quarter horses also?

Mr. COOPER. The Senator is correct. It would take care of them and the Appaloosas, too.

Mr. TOWER. I thank the Senator.

Mr. WILLIAMS of Delaware. Mr. President, I am in a position of having to object to an amendment offered by my friend, the Senator from Kentucky.

The committee went pretty far into what we thought was the question involved and I cannot support this amendment. However, recognizing that we are dealing with a Christmas-tree measure, perhaps it would be proper to put a hobbyhorse under this Christmas tree.

I hope that the amendment would be defeated and that we could at least hold what little reform we have in the bill.

I do not care to debate it further. I think everyone understands that it involves the liberalization of the provision on hobby farming.

Mr. President, I yield back the remainder of my time.

Mr. COOPER. Mr. President, this is a serious amendment. The horse business is important to the economy of my State and other States, I believe and hope very much that it will be approved. I hope very much that the Senator from Delaware, (Mr. WILLIAMS), and the Senator from Louisiana, (Mr. LONG), and the conferees will support the measure in conference.

One cannot make a profit in 2 years out of 5 when the breeding and raising cycle is 5 years. We ask only that this important business be treated equally with other farming businesses.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment of the Senator from Kentucky.

The amendment was agreed to.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS

Mr. MANSFIELD. Mr. President, will the Senator yield me one-half minute?

Mr. COOPER. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the chairman of the Foreign Relations Committee be authorized to file reports from his committee and that all other committees be authorized to file their reports following the close of business today until midnight, including any minority, individual, supplemental, or additional views.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

TAX REFORM ACT OF 1969

The Senate continued with the consideration of the bill (H.R. 13270), the Tax Reform Act of 1969.

MINIMUM TAX FOR TAX PREFERENCE

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 212, commencing with line 15 strike out all through line 2 on page 214 (relating to minimum tax for tax preferences) and insert the following:

"SEC. 56. IMPOSITION OF TAX

"(a) IN GENERAL.—In addition to the other taxes imposed by this chapter, there is hereby imposed for each taxable year, with respect to the income of every person, a tax equal to 10 percent of the amount (if any) by which—

"(1) the sum of the items of tax preference in excess of $30,000, is greater than

"(2) the taxes imposed by this chapter for the taxable year (computed without regard to this part and without regard to the taxes imposed by sections 531 and 541) reduced by the sum of the credits allowable under—

"(A) section 33 (relating to foreign tax credit),

"(B) section 37 (relating to retirement income), and

"(C) section 38 (relating to investment credit)."

For purposes of paragraph (1), the items of tax preference shall be reduced by the amount of deduction allowable under subsection (b) (relating to net operating losses) to the extent the taxpayer chooses to take such deduction.

"(b) Net Operating Losses.—In the case of any taxable year for which the taxpayer has a net operating loss (as defined in section 172(c)) or for which a net operating loss deduction is allowable under section 172 (a), the taxpayer may elect to deduct, for the purposes of subsection (a) (1), from the items of tax preference so much of such net operating loss or of such net operating loss deduction as he chooses. To the extent any loss is deducted under this subsection for purposes of subsection (a) (1), it shall not be allowed as a deduction under section 172. Any deduction under this subsection shall be treated as availed of first from the earliest loss which is carried over to the taxable year under section 172. The election for any taxable year to take a deduction under this subsection may be made or changed at any time before the expiration of the period provided for making a claim for credit or refund of the taxes imposed by this chapter for the taxable year."

Mr. LONG. Mr. President, does the Senator desire the yeas and nays on this amendment?

Mr. MILLER. Yes.

Mr. LONG. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. Mr. President, will the Senator agree to a limitation of time on the amendment?

Mr. MILLER. Mr. President, I should like to suggest that I be allowed to proceed for 5, 6, or 7 minutes, and we may be able to wind this up in a matter of a few minutes if my colleagues would not mind staying in the Chamber.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MILLER. Mr. President, on the desk of each Senator is an explanation of the pending amendment, which is designed to cure some inequities that are in the minimum tax part of the pending bill.

During the last few days I have heard many conversations about what is regarded as inequity contained in the minimum tax provisions of the bill. For one thing, it is said that in the case of a taxpayer not paying any tax under present law, to put a tax of only 5 percent on the amount of his tax preference is terribly low. For another thing, it is said that there are many taxpayers who are

paying a substantial amount of tax, but under the bill they would have 5 percent of their tax preferences added on top of their substantial tax bill.

My amendment seeks to get at these two inequities in this way: First, it provides that those people who are paying taxes can subtract from their tax preferences the amount of their tax. That gives those who are paying some tax a break. It gives those who are paying little or no tax very little break or none at all.

Second, my amendment increases the minimum tax rate in the bill, which is now 5 percent, to 10 percent.

As will be found in the example sheet on the desk of each Senator, under the bill, consider a taxpayer whose regular tax is $80,000, with tax preferences—in excess of $30,000—amounting to $100,000. Under the bill, 5 percent of that $100,000 of tax preferences would be a minimum tax to be added to the regular tax of $80,000 for a total tax bill of $85,000, just adding insult to injury. But under my amendment the $80,000 of taxes would be subtracted from the $100,000 of tax preference, and a 10-percent rate would be applied to the difference, which would bring that tax bill to $82,000. So we would not be adding as much insult to injury under my amendment as we would under the pending bill.

But the gross case in which somebody is not paying any tax at all shows in the second example. The tax under the regular tax rates is zero. Tax preferences of $100,000; and under the bill the total tax would be only 5 percent, or $5,000.

This, mind you, while many low-income people in this country have a minimum tax rate of 13 or 14 percent.

Under my amendment, of course, there would be no tax to subtract from the tax preferences, which would leave the entire $100,000 subject to a 10 percent rate, or a $10,000 total tax bill double what it would be under the bill.

I know that many of us are concerned about some of the revenue-losing features of the amendments that have been offered on the floor. I am very pleased to tell the Senators that, whereas, under the pending bill the minimum tax would pick up $700 million additional revenue, my amendment would pick up $740 million.

A few moments ago, we adopted the Dole amendment, as modified by the McIntyre amendment. This is going to cost upwards of $20 to $25 million loss in revenue.

My amendment does equity. It makes sure that those who are not paying any taxes at all will have to pay at least 10 percent of their tax preferences, and it will bring added revenue into the Treasury compared with what the tax bill does—certainly enough to offset the loss under the Dole amendment.

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

Mr. MILLER. I yield.

Mr. LONG. The prime example that we have heard mentioned about the oil companies, over and over again, is the situation that existed with regard to Atlantic Richfield, which made a substantial amount of money and paid no taxes. The Senator's amendment would hit Atlantic Richfield Corp., under the same facts, twice as hard as the minimum tax.

On the other hand, if someone is paying a great deal of taxes he would not be affected by the minimum tax, because the taxes he pays would completely offset his tax preferences. However, with regard to people such as the 154 who were found to be paying no taxes, most of them would pay twice as much under the Senator's proposal as they would pay under the minimum tax in the bill.

Personally, I think the Senator has a good amendment. Frankly, I am aware that some people who suggested to us the minimum tax which appears in the bill have studied the proposal of the Senator. They tell me that if you want to tax foreigners, if you want to tax the people who are paying no tax or who are getting by with paying little, you will tax them twice as much with this amendment as you will with the minimum tax in the bill.

This proposal was not considered in the committee, but I think it has more merit than what we did in the committee.

Mr. MILLER. I appreciate the comments of my colleague.

May I say that everyone knows that the Finance Committee was under terrible pressure and limitation of time when it considered this bill.

What we were distressed about was the so-called limited tax preferences and allocation-of-deductions provisions in the House bill, which were terribly complicated and, in many cases, inequitable.

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

Mr. MILLER. I will yield in a moment.

In an effort to simplify the House bill's approach to a minimum tax, on very short consideration, we decided on the 5-percent minimum tax. It certainly simplified things; but in working simplicity, I think we worked inequity.

I have spoken with many people who have criticized the pending bill because they said, "Here you were supposed to do something about people who weren't paying any tax. Now the best you have come up with is 5 percent of those tax preferences."

By doubling it to 10 percent, we will do a better job along this line.

There also has been the criticism on the other side, by those who have been paying a substantial amount of taxes, who say, "Now you're going to pile another 5 percent on top of us."

My amendment takes care of both those inequities and, at the same time, does bring in a little more revenue from the minimum tax than does the bill.

I yield to the Senator from Massachusetts.

Mr. KENNEDY. Will the Senator give us some indication of the revenue increase, both for corporations and for individuals, under his amendment?

Mr. MILLER. May I say to the Senator from Massachusetts that I think we can get that information for him. I received this estimate from the staff based upon a computer run on the entire picture—both corporations and individuals.

Mr. KENNEDY. The Senator will correct me if I am wrong, but my understanding of what the Finance Committee has done is that is has identified nine areas which are generally recognized as tax shelters.

There are some taxpayers who will shelter more income than others. The Committee on Finance applied a 5-percent rate on the committee's minimum tax base. Of course, the committee omitted from its minimum tax base the appreciation in value of property donated to charity.

What is suggested by the Senator from Iowa is the following: We are going to provide an opportunity for those in corporations and industries who are now making hundreds of thousands of dollars in salaries to shelter enormous amounts of their income from all Federal taxes.

Mr. MILLER. Mr. President, I am afraid that the Senator from Massachusetts does not quite understand my amendment. Take, for example, a corporation which has $50,000 of tax under the regular computation method.

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

Mr. MILLER. If I may, I would like to complete my example.

Mr. KENNEDY. Mr. President, I wish the Senator would use the illustration of an individual, because I think that the concept of the minimum tax is more appropriate for individuals than for corporations.

Would the Senator please use as his example an individual with $100,000 of income?

Mr. MILLER. I thought the Senator was talking about corporations. That is why I was going to use an example of a corporation. I can do it either way.

Mr. KENNEDY. I wish the Senator would make his explanation with reference to individuals. Perhaps he would use the example of a corporate executive who receives $100,000 in salary and has $100,000 in tax shelters.

Mr. MILLER. I would guess that on an average, a person with $100,000 of income would pay, let us say, $40,000 in taxes.

Mr. KENNEDY. He would normally have taxes of $70,000 on the $100,000 income, if his total taxable income is such that the $100,000 is taxed at the rate of the highest bracket, 70 percent. Of course, if his total taxable income is only $100,000 altogether, his tax would not be $70,000.

Mr. MILLER. I must say to the distinguished Senator from Massachusetts that I do not believe such a case exists. A married person with an income of $100,000, no children, just a husband and wife, with normal deductions, I would say on an average, would have a tax of $40,000.

Let me use that example to give the illustration the Senator would like to have. Let us say he has a salary of $100,000 and a regular tax of $40,000. In addition to that he has $100,000 of tax preferences. Now, under the bill that is pending before us he would have $5,000, which is 5 percent of that $100,000, to pay on top of the $40,000 he is already paying.

Under my amendment he would subtract the $40,000 tax he is paying from the $100,000 tax preferences, and he would have $60,000 left over. He would

have to pay 10 percent on that, and that would increase his minimum tax by $6,000 over the $5,000 provided by the bill.

Mr. President, I use that example to illustrate how a person with large tax preferences, and not a large tax, will actually have his tax increased under my 10-percent approach. But if he had a larger tax in comparison to his tax preferences, then my tax of 10 percent would not add so greatly to his burden. The equity of the amendment is that a person with low taxes compared to his tax preferences will pay more under my amendment; if he has high taxes compared to his tax preferences, he will pay very little more.

Mr. KENNEDY. I do not dispute that under the Senator's amendment, someone with very high tax preference income in relation to his taxes would pay a larger minimum tax than that he would pay under the committee bill. At the same time, however, the Miller amendment is far weaker than the committee bill for someone who has both high taxes and high preference income. This is the flaw in the Senator's amendment. I prefer the simple committee approach of a flat 5-percent minimum tax for all of the tax-sheltered areas that have been recognized by the committee. This is the essence of the minimum tax. All taxpayers should pay at least some tax on their income from tax loopholes. This is what the taxpayer's revolt is all about.

Although the Miller amendment has the virtue of closing more loopholes for individuals who have considerable income purely from tax-free sources, it opens up new loopholes for individuals whose tax shelters are accompanied by high taxes or their other income. I am just as concerned with an individual who pays $100,000 in taxes and has $100,000 in tax-free income as I am in the individual who has no taxes and $100,000 in tax-free income. Yet, the Miller amendment would not apply at all to the first individual, even though he is enjoying $100,000 in tax-free income. Simply because a tax dodger is paying tax on some of his income is no excuse to allow his preference income to go scot free of taxes.

Ideally, we should try to combine the virtues of the Miller amendment and the virtues of the committee bill. Perhaps the best answer would be to adopt both provisions as alternative versions of the minimum tax. The individual would calculate his minimum tax each way, and he would pay whichever tax was greater. If we have to choose one or the other, however, I prefer the committee flat rate of 5 percent on all preference income. It is simple and easy to understand, and it means that no one gets a free ride for the use of tax shelters.

I recognize that there are taxpayers who use tax preferences to reduce their taxes to zero. That is the case of the 155 nontaxpayers we have heard so much about since last January. I agree that the Miller amendment would attack this problem more effectively than the committee bill, but the difference is not all that great. The committee rate is 5 percent and the Miller rate is 10 percent. Both of these rates are still only slaps on the wrist for anyone with huge tax shelters. So the Miller amendment is not all that much of an improvement even in getting at those 155 nontaxpayers.

At the same time, we must realize that the Miller amendment would open a huge loophole in the minimum tax for anyone who is already paying high taxes. Executives with hundreds of thousands of dollars in taxable salaries, and individuals with hundreds of thousands of dollars in dividends, would be able to avoid any minimum tax whatever until their tax loophole income exceeded their taxes. Worse, even at this level, the Miller tax would not be as effective as the committee tax until an individual's tax preference income exceeded twice his taxes.

In essence, the Miller amendment is similar in principle to the House bill's minimum tax, which was adopted from the Treasury study last December. The House bill was subject to the same basic defect as the Miller amendment, and that is why I, for one, am glad the committee chose the broad-based 5-percent rate approach.

One other issue ought to be raised here. Last Saturday, when we debated the minimum tax, one of the principal objections raised against my amendment to make the rate progressive was it would raise the top tax rate on capital gains to 42½ percent. I believe that the Miller amendment would raise the rate of tax on capital gains for some people to 40 percent.

Mr. MILLER. Mr. President, the Senator does not interpret my amendment accurately.

Mr. KENNEDY. I think I understand the Senator's amendment. It has some merit, but it also has a serious defect, because it gives a big tax break to persons with high taxable income.

Mr. MILLER. The Senator does not accurately interpret the amendment, and I shall try to clear up his problem. Let me give the Senator two examples.

The PRESIDING OFFICER (Mr. SPONG in the chair). The Senate is not in order. The Senate will be in order.

Mr. MILLER. Let us take the example of A and B. Let us say each of them has a salary of $100,000 and each of them has $40,000 in taxes. A has tax preferences of $50,000 and B has tax preferences of $100,000. In relation to tax preferences, A obviously has a much higher tax load and, therefore, he should have a better break, which he receives under my amendment. But as far as B is concerned, he has a much lower tax load in comparison to his tax preferences, and my amendment adds to his burden over what the committee bill would do.

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

Mr. MILLER. I yield.

Mr. LONG. Mr. President, the study made by the Treasury Department indicates that taxpayers making over $100,000 on the average pay about 35 percent of their income in taxes. The Treasury, in moving toward tax equity, sought to bring those people paying nothing up to that 35 percent that the average person in that categeory pays.

The Senator's amendment goes further in that direction than does the bill reported by the committee. In that respect, it is striving toward tax reform.

I am sure we will find plenty of those people if we leave the amendment pending overnight.

Mr. MILLER. I thank the Senator.

Mr. President, another answer to the Senator from Massachusetts is this. Where does the Senator from Massachusetts think we get the extra revenue so that we come out with more money under my amendment than under the tax bill? We get it by taxing those people with low taxes in comparison to preferences more—through a 10-percent tax rate—than does the bill with its 5 percent rate.

I would be amazed if the Senator from Massachusetts would not support my amendment, and I think he will when he understands it.

This, to me, as between two taxpayers, one who pays low taxes in comparison with the tax preferences and the other who pays high taxes in comparison with the tax preferences, seems a fairer approach. One with the low tax in comparison to his tax preferences should have a bigger tax than we give him under the tax bill, and under my amendment this will happen.

Mr. LONG. There are more than just working people who have a right to a taxpayers' revolt. Some fellow who sees 70 percent of his income going in taxes, while his neighbor down the street is paying zero in taxes but making the same income, has a more compelling reason to complain about the present tax system than those who pay very little, if any, tax because they are in a low-income bracket.

Mr. MILLER. May I say this to my colleague, in response to what he has just said, that I have received criticism and have heard criticism about the fact that when Congress comes in under the name of tax reform to put an end to the group of taxpayers who pay no tax but earn large incomes, the answer we propose in the bill is that we will tax them at 5 percent. This is not satisfactory. Ten percent, which doubles it, is certainly better. What I am striving to do in this amendment is to come out with the same revenue as the minimum tax in the bill. It does. In fact, it adds $40 million over the revenue provided by the bill. As time goes on, we may find that we should improve the minimum tax approach, but the one in the bill is inequitable, and my amendment corrects the inequities.

Mr. WILLIAMS of Delaware. Mr. President, the amendment of the Senator from Iowa raises an interesting point. I frankly am not sure that I understand it completely so that I could say whether I like it or not. I have talked with the Treasury Department and they are checking it. They will not be able to have it checked out in time as to how they think it would work under various circumstances for a vote at the immediate time.

Therefore, I am wondering, rather than delay any further, if the Senator would withdraw his amendment without prejudice, with the clear understanding that he can offer it later and not be precluded from that. In the mean-

time, that would give us an opportunity to get the Treasury to check it out and some of us can sit down without delay and find out a little more about the matter.

Mr. MILLER. That is, I think, certainly a fair request. I do not wish to——

Mr. CURTIS. Mr. President, will the Senator from Iowa yield to me?

Mr. MILLER. Mr. President, I ask unanimous consent to yield to the Senator from Nebraska (Mr. CURTIS) without losing my right to the floor.

The PRESIDING OFFICER. Without objection, the Senator from Nebraska is recognized.

Mr. CURTIS. Mr. President, I rise for the purpose of reciting a little legislative history.

The investment credit was repealed. This means that the 7-percent credit is no longer allowed.

The President made a statement to that effect on April 21.

Word had leaked that he might make such a statement and it was alleged that certain taxpayers rushed in and closed deals over that weekend.

Therefore, the Ways and Means Committee drew the curtain down on the investment credit at midnight of April 18, so that transactions on April 19 and thereafter would not get the investment credit.

The question arose, what about the transaction that was in progress, where parties, in good faith, had contracted to buy equipment, or to build something, or to buy something so that the investment credit would be allowed?

The Finance Committee, in dealing with the subject, tried to do the fair thing. It tried to close out the alleged contract that had no previous history, but it tried to take care of that contract which, in truth and in fact, was under way at the time the repeal became effective.

As a matter of fact, as shown by the committee report on page 230, the committee even directed that certain oral contracts be validated.

I read as follows:

> A contract for this purpose may be oral or written. However in the case of an oral contract the taxpayers must establish by appropriate evidence that a contract was, in fact, entered into before the close of April 18, 1969. This may be done by memorandums, the conduct of the party, or other evidence that a contract was, in fact, entered into.

Mr. President, it happened that a certain taxpayer had this experience. I read this information into the record before the executive session of the Finance Committee. The minutes of the board of directors of the purchaser recorded a formal authorization to complete the transaction in February 1969. The executive committee of the selling corporation authorized acceptance of the offer in March 1969. Both corporations proceeded to complete the details of negotiation and they did not get the loose ends wound up prior to midnight of April 18. But it was clear that they had a binding contract. There was the written evidence of the one corporation in February and the other one in March.

Now, Mr. President, I recited the facts I have here before the Finance Committee in executive session. The question was discussed as to whether there should be an amendment to take care of the situation and see that the purchaser obtained the investment credit, because the Finance Committee did adopt amendments in cases where there were borderline cases and as a matter of justice, it should be done.

At that time, the view was expressed by some staff members, in fact, by all staff members who spoke up, conveying the idea that an amendment was not necessary. As a result, an amendment was not offered.

Inasmuch as this took place in executive session, where there is no printed record, I felt impelled to recite it here because I am convinced that this particular transaction falls within the intent of the committee and that the investment credit should be allowed in this case.

Let me add further that a quorum was present of the committee. The Treasury Department was there. We were well advised by staff so that the record was made to show the intent of the committee to allow the investment credit in a case of this kind and to show the intent of the committee that an amendment was not necessary. Therefore, I have chosen to make this statement at this time.

Mr. President, I yield the floor.

Mr. MILLER. Mr. President, I understand we are still waiting for some information for the Senator from Delaware, and since we are, I ask unanimous consent that my amendment be temporarily laid aside so that other amendments can be considered.

The PRESIDING OFFICER. Is there objection?

Without objection, the amendment of the Senator from Iowa is temporarily laid aside.

CERTAIN ITEMS OF TAX PREFERENCES

Mr. HANSEN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment of the Senator from Wyoming will be stated.

The assistant legislative clerk read the amendment, as follows:

> On page 354, strike lines 20 through 24 and insert the following:
> "If, for any taxable year, a taxpayer has items of tax preference specified in section 57(a) (excluding the capital gain preference described in section 57(a)(9)(A)) in excess of $10,000 ($5,000 in the case of a married individual filing a separate return), an amount equal to such excess shall be subtracted from the amount of long-term capital gains specified in paragraph (3)."

Mr. HANSEN. Mr. President, the Finance Committee amendments to H.R. 13270 provided some relief for taxpayers with relatively small amounts of capital gain by permitting the 25-percent alternative rate to remain applicable. Accordingly, single persons and married couples filing joint returns may continue to apply the 25-percent rate in the case of capital gains of up to $140,000—$70,000 in the case of married persons filing separate returns. However, this rate is available only if the taxpayer does not have tax preference income as described in the bill—other than the excluded one-half of capital gains—in excess of $10,000—$5,000 in the case of married persons filing separately.

The complete elimination of the alternative tax, as proposed by H.R. 13270, would impose a heavy burden on capital investment, and it would discourage investment in new ventures. The Treasury Department recommended against the complete elimination.

However, the alternative rate of tax on long-term capital gains has been abused by some wealthy taxpayers who consistently have very large amounts of capital gains and small amounts of ordinary income. The result is that their effective income tax rate is very low.

To insure against this continued abuse, and, at the same time to allow continued capital investment and market transactions by relatively small investors without an increased tax burden, $140,000 of long-term capital gains remains subject to the alternative rate in the Finance Committee version of the bill. However, this provision becomes inapplicable if the taxpayer has tax preference income in excess of $10,000. The effect is to completely deny this relief in many cases where the 25-percent rate should be applicable. For example, a taxpayer who, in addition to other income, has $10,000 of capital gain and $11,000 of accelerated depreciation on real property will be unable to use the 25-percent rate. In order to achieve a more equitable result and eliminate the "notch" of $10,000 of tax preferences as an absolute cutoff, a taxpayer with tax preference income in excess of $10,000 should be permitted to reduce the $140,000 of capital gain, subject to the 25-percent rate, by the amount of such excess. For example, if the tax preference income is $50,000 for any year, the taxpayer would reduce his limit of $140,000 subject to the alternative by $40,000—which would be $50,000 minus $10,000—and, therefore, a maximum of $100,000 of long-term capital gains would be subject to the 25-percent rate.

This amendment would insure that the 25-percent rate remains available to the taxpayer with relatively small amounts of capital gain.

Mr. President, I have asked the Treasury for an opinion on this amendment. I have a letter here from Mr. John Nolan, of the Treasury Department, saying that the Treasury has reviewed the amendment and agrees with it and recommends its adoption.

Mr. TALMADGE. Mr. President, this is a recommendation that the Treasury Department has made. It would relieve to some degree the burden on capital gains.

I have conferred with the distinguished ranking minority member of the committee. He is agreeable to accepting it. Our staff recommends it. I urge the Senate to approve it.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Wyoming.

The amendment was agreed to.

AMENDMENT NO. 314

Mr. HART. Mr. President, I call up my amendments (No. 314).

The PRESIDING OFFICER. The clerk will read the amendments.

Mr. HART. I ask unanimous consent that the reading be dispensed with.

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

The amendments (No. 314) are as follows:

On page 514, line 18, strike all after TRUST LAWS.—to page 515, line 16 and insert in lieu thereof the following:

"No reduction shall be allowed under subsection (a) for two-thirds of any amount paid or incurred on any judgment entered against the taxpayer or in settlement of any action by reason of anything forbidden in the Sherman Act (Act of July 2, 1890, ch. 647, 26 Stat. 209, as amended) brought against the taxpayer under section 4 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes,' approved October 15, 1914 (38 Stat. 731; 15 U.S.C. 15), by reason of anything forbidden in the antitrust laws."

On page 517, after line 22, insert the following:

"(d) (1) Part III of chapter 1 of the Internal Revenue Code of 1954 (relating to items specifically excluded from gross income) is amended by inserting at the end of part III the following new section:

"'SEC. —. TREBLE DAMAGE PAYMENTS RECEIVED UNDER THE ANTITRUST LAWS.

"'Gross income does not include two-thirds of any amount received during the taxable year on any judgment entered for treble damages or in settlement of any action by reason of anything forbidden in the Sherman Act (Act of July 2, 1890, ch. 647, 26 Stat. 209, as amended) brought by the taxpayer to recover treble damages under section 4 of the Act entitled 'An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes," approved October 15, 1914 (38 Stat. 731; 15 U.S.C. 15), by reason of anything forbidden in the antitrust laws.'

"(2) The amendment made by paragraph (1) shall be applicable only with respect to amounts received after the date of the enactment of this Act."

Mr. HART. Mr. President, the effect of the amendment would be to extend the action that the Finance Committee has recommended with respect to the treatment of moneys paid as a result of an antitrust treble damage judgment or settlement.

The bill before us allows the deduction of two-thirds of sums paid to the prevailing party in a Clayton section 4 action for treble damages, provided, however, that the civil action relates to an incident or transaction which has been the subject of a Department of Justice criminal action which has been concluded with a conviction.

This is a desirable advance in the treatment of sums so paid by businesses which have offended the antitrust laws, but the amendment I now offer would not condition the adjustment on a prior Department of Justice action.

Whether or not there had been a successful criminal prosecution, the firm against which the civil judgment had been rendered would not be permitted to deduct two-thirds of that sum.

Earlier in the proceedings, I inserted in the RECORD, under date of November 26, at page 35905, an explanation of the amendment. Printed there is the amendment which is now before us. Additionally, the day before, as I recall, which would be November 25, I sent my colleagues a letter which included an explanation of this amendment.

Further, Mr. President, the amendment would exclude from taxable income two-thirds of the payment to a plaintiff who had succeeded in obtaining a treble damage judgment. This second feature of the amendment, however, becomes effective only after the effective date of the act with respect to amounts received after that date.

It is my feeling that it is not inappropriate to achieve a socially desirable end through the Internal Revenue Code itself. We have on many occasions used the Code for that purpose. This admittedly would seek to make more effective the discipline of antitrust statutes on business practices by way of antitrust treatment.

Mr. President, amendment No. 314 would be a substitute for that part of section 903 of the tax bill which relates to the tax deductibility of treble damage payments by defendants in private suits for antitrust violations. This amendment also would exclude from gross income of plaintiffs the penalty part of the judgment in such cases.

We recall the shocking price-fixing cases against the manufacturers of electrical equipment by the Department of Justice in Philadelphia in 1962 and 1963. Following the indictments some 2000 private damage suits were filed by States, cities, TVA, and private power companies claiming damages from the price fixing by the equipment manufacturers. Section 4 of the Clayton Act requires the court to treble the actual damages in such cases.

The courts have frequently considered this trebling of the actual damages as a penalty for the violation of the antitrust laws. As late as 1955 the Supreme Court in *Commissioner of Internal Revenue* v. *Glenshaw Glass Co.*, 348 U.S. 426 treated the trebled part of the judgment as a penalty.

These court decisions are in line with the purpose of section 4 of the Clayton Act. That purpose was and is to serve as an additional deterrent to antitrust violations. Assessment of a civil penalty in the form of trebled damages is indeed a deterrent.

It is important to note that section 4 assessed the penalty without reference to any civil or criminal prosecution by the Government. It is punishment of the restraint or monopolizing of trade entirely separate and apart from the penalties provided in the Sherman Act. The penalty is the result of private action for damages caused to private parties by the restraints or monopolizing.

This is important to remember because it is the essence of the difference in my amendment and section 903 as now written with respect to taxes to be paid by the defendants in such private cases.

But first let me explain the need for this in the tax bill. In 1964, the Internal Revenue Service issued a formal ruling at the request of some of the defendants in the Philadelphia electrical equipment cases. The ruling 64–224, held that all of the treble damage judgment in a section 4 private suit was deductible as ordinary and necessary expenses of doing business.

This ruling was a reversal of the Service's informal rulings prior to 1964. It seemed to ignore the very nature and purpose of the punishment fixed in section 4. By allowing the penalty to be deductible as ordinary and necessary expense of doing business, thus greatly reducing the statutory punishment for law violation, it runs contrary to general public policy. It further violated our specific national policy against restraints of trade and monopoly by greatly reducing the civil penalty for such violations and removing much of the deterrent effect of section 4.

Since 1964, I have undertaken in each Congress to restore the effectiveness of section 4 by reversing this Internal Revenue ruling. This can be done only by restoring the penalty in section 4 without regard to or being dependent on prosecution by the Department of Justice. That was the effect of section 4 prior to the tax ruling and it cannot be restored to its full and intended effectiveness without reversing in full the tax ruling. In brief, the result of the ruling was to short circuit the policy and law on antitrust enforcement as Congress had written it.

Section 903 as now written would reverse the tax ruling only in those cases of private damage judgments under section 4 which follow criminal judgments obtained by the Department of Justice. Section 903 would have no effect on the tax ruling in cases where the Department had not criminally prosecuted or filed only a civil case or took no action at all.

Section 903 would reverse the tax ruling in only a small number of antitrust violations. It ignores or thwarts the vital purpose of section 4; namely, to create an additional arm of enforcement through private action and a deterrent to violations.

Section 903 would apply only in cases in which the Department has criminally prosecuted and collected criminal penalties which might include a jail term as well as a fine. Those are the cases in which private treble damage cases are least needed. My amendment would reverse the tax ruling in full and restore the effectiveness of section 4 to the degree that Congress intended.

This amendment would make one-third of the treble damage judgment deductible by the defendant for income taxes. This would represent the amount paid by him as actual damages to the plaintiff. The other two-thirds of the judgment representing the penalty assessed by law for the antitrust violation would not be deductible. The penalty of section 4 would not be lessened and the deterrent to violations through private action again would be fully effective.

Amendment No. 314 would also restore the inducement to private suits to enforce the Sherman Act. Section 903 as written does nothing on this.

The amendment would remove from gross income of the plaintiff in antitrust treble damage judgments two-thirds of the judgment. One-third would be included in gross income. The two-thirds

would again be considered as a penalty for a law violation. This was generally believed to be the law until the Glenshaw case by the Supreme Court in 1955. Even at that time the lower court and the Court of Appeals for the Seventh Circuit held the penalty was not income. The Supreme Court held that section 22(a) of the tax law defining gross income as "income from any source whatever" did not exclude "money received as the punitive two-thirds of a treble-damage antitrust recovery."

My amendment would conform the definition of gross income to that generally understood prior to the 1955 decision. It would thereby restore the inducement to private plaintiffs.

I urge that my colleagues support amendment No. 314. It is of national importance. If each of you could have sat with me through the Antitrust Subcommittee's many hearings on the growth of industrial concentration in our economy you would, I believe, agree with me on the need for stronger and more effective antitrust enforcement. This can be greatly aided by private action.

This amendment, just as section 4, does not place any burden on the public. It shifts the tax burden from the public to the law violators where it should be. It gives the Treasury the money the tax ruling took away. It carries out the national policy against restraints and monopolies of trade. And we should keep in mind that every such act in violation of the Sherman Act is a criminal offense, whether or not the Department of Justice prosecutes.

Objection is made that we should not attempt to achieve such goals by use of tax provisions. But Congress has used a tax effect to accomplish a nontax social purpose in many instances—depletion, interest equalization, investment credit—are a few examples. This is not a valid objection to the amendment if it is otherwise meritorious. And I have outlined its merits and value.

I would hope very much that we would extend, by the adoption of this amendment, the constructive action that the committee itself has taken in this area.

Mr. HRUSKA. Mr. President, I rise in opposition to the amendment proposed by the Senator from Michigan.

Mr. HART. Mr. President, will the Senator yield so that I may ask for the yeas and nays?

Mr. HRUSKA. Surely.

Mr. HART. I ask for the yeas and nays.

The PRESIDING OFFICER. There is not a sufficient second.

Mr. HART. Very well.

Mr. HRUSKA. This amendment should be defeated, Mr. President. It seeks to disallow income tax deductions for the amounts paid by a defendant in any action in which a treble damage judgment or settlement is paid.

It also provides that two-thirds of any such payment is not to be included in the gross income of the recipient thereof.

Mr. President, in order to achieve proper perspective, we ought to note that there is a provision in the committee bill providing for nondeductibility of treble damage assessments and payments made thereunder after conviction in criminal prosecutions, and also that conviction must occur after January 1, 1970. So it should be stated at the outset that the question at hand is not whether offenders against antitrust laws should be punished; it is not whether they should be treated leniently or in a more favored way than other law violators.

The antitrust law violator should be punished. It should be by a penalty in keeping with the gravity of the offense. It should be such that it will operate as a deterrent for others as well as the violator as to future or further violations. It should be in keeping with the principles and application of sentencing which have evolved through generations in this field and in the general field of sentencing.

Mr. HART. Mr. President, will the Senator yield briefly, for the purpose of again asking for the yeas and nays?

Mr. HRUSKA. I yield.

Mr. HART. I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. HRUSKA. I am happy to yield.

Mr. TALMADGE. Would the Senator from Michigan and the Senator from Nebraska agree to a time limitation on this amendment?

Mr. HRUSKA. The Senator from Nebraska would rather that that request were postponed until after he has made his statement.

The Sherman Antitrust Act from the time of its passage to the present has provided criminal penalties, and properly so. From time to time these sanctions have been reviewed and changed. Pending in the Congress right now is another measure which seeks to substantially increase maximum fines—from $50,000 to $500,000, a tenfold increase.

This Senator introduced that bill. It has the support of the administration.

It is hoped the Congress will approve it soon.

The method of sentencing sought by this amendment does not have any of the provisions of virtually all of our criminal laws—namely, a judge to apply a punishment to fit the crime or offense, with a range of upper and lower limits depending on the seriousness of the crime, the record of the accused in similar situations, and the impact the punishment will have upon him and those about him, and upon the public.

The issue before the Senate now, therefore, is not whether an antitrust offender should be punished but whether the method and degree of punishment provided in the pending amendment is proper, desirable, and fair.

In the Tellier case, decided about 3 years ago, the opinion read in part:

> We start with the proposition that the Federal Income Tax is a tax on net income, not a sanction against wrong-doing. This principle has been firmly imbedded in the tax statute from the very beginning.

The proposed amendment seeks to make of the income tax a method and a course whereby punishment can be inflicted upon the offender—the violator of the antitrust laws—through the income tax statutes, and that is not good legislation.

Second, the proposed amendment would discourage settlement of such treble action suits; thus further clogging court dockets which are already overcrowded. Thus enforcement would be impaired.

Third, the penalty provided is excessive. Considering the corporate tax rate currently applicable, the approval and passage of this amendment would result in a sixfold burden, not a threefold burden.

Fourth, the penalty resulting from nondeductibility is not sufficiently related to the seriousness of the offense committed.

Finally, the penalty would often be unfair and harsh because of difficulty of determining when the antitrust law is applicable and when it is violated.

Mr. President, the subject of deductibility of treble damage payments has a long history.

That history was made chiefly in the Committee on the Judiciary and rightly so because the provision providing treble damages is a part of the antitrust statute.

Any proposal for a change in that law should originate in that committee where due consideration can be given to the entire context and purpose of the statute involved.

That is not the case here. The Senate is asked to consider a feature of antitrust law in the debate and action on a tax measure.

This is most unfortunate and unfair.

The income tax law, I repeat, should not be used—or rather abused—to punish wrongdoing. Criminal laws and penalties should be used for that purpose.

A basic tenet of income tax law is that "ordinary and necessary business expenses" are deductible.

Treble damage payments are ordinary and necessary business expenses. They have been held and treated as such for a long time; and they have been deductible on that basis for a long, long time.

The Supreme Court has described the treble damage provision as a "remedial provision for redress of private injuries in several decisions (*Eastman Co.* case, 273 U.S. 359, 373. Also *U.S. v. Cooper Corp.*, 312 U.S. 600, 608).

The overwhelming weight of judicial authority supports the proposition that treble damages provisions are compensatory in nature, not punitive. Yet, the amendment seeks to put treble damages in the same class as fines imposed upon conviction in a criminal action.

Fines are not tax deductible. The amendment seeks to make damage judgments not deductible, and have them occupy the same relationship in the tax picture as fines.

Therefore this question can well be put, Mr. President: Why discriminate in this field by depriving this type of damage of its deductible classification? There are many decisions in many causes that are in effect similar, if not identical, to treble damage payments, which are deductible and would remain so, notwithstanding the approval of the Hart amendment.

And the basis of their deductibility is that they are held to be ordinary and necessary business expenses. There is no reason to single out treble damages compensatory cases and not treat other situations in like manner.

There are many examples of similar and even identical cases. For example, I cite the payment of treble damages in price ceiling violations under the Price Control Act. That was a circuit court case, second circuit court.

In the instance of multiple damages paid to an employee for violation of the Fair Labor Standards Act, that was held to be deductible by the Internal Revenue Service. The settlement of a judgment against a taxpayer for fraud was deductible as ordinary and necessary business expense. That is a ninth circuit case.

In the Tellier case, decided in 1966 in the Supreme Court of the United States, a taxpayer was convicted of fraud in the sale of securities. That is certainly as venal a crime or offense as the violation of the Antitrust Act. The Supreme Court held that the fine was not deductible, but that $22,000 paid as attorneys' fees were deductible.

And it was in that case that the opinion read in part:

> We start with the proposition that the Federal income tax is a tax on net income, not a sanction against wrong-doing. This principle has been firmly imbedded in the tax statute from the very beginning.

The proposed amendment seeks to violate that principle and, worse yet, to violate it in only one instance and disregard it in numerous similar and even identical situations.

The amendment is unconscionable because in many cases it is difficult to determine when the law is violated. It is difficult to determine in which cases that are prosecuted criminally it would apply. It would apply to all cases in which treble damages are awarded. The unconscionable nature arises from the fact that a business firm may subject itself to treble damage action even though it has made every effort to avoid antitrust violations.

Here is one very spectacular example. Back in 1926 the U.S. Supreme Court approved as valid a consignment arrangement for merchandise. That is the *General Electric Co.* case in 272 United States 476. The use of that contract did not violate the Sherman Act, the Court held. That was in 1926.

Mr. President, in 1966, 40 years later, after the economy and commerce in this Nation had in large measure, and over a tremendously larger sector of transactions of this nature, been based upon and operated upon the validity of that type of consignment arrangement, the Supreme Court changed its mind.

The Supreme Court sustained an action by a service station operator against an oil company for treble damages. And it held that a consignment contract, parallel to the 1926 situation, was in violation of the Sherman Act.

If that situation would be repeated, and it will be because the examples are so numerous, any company or taxpayer basing his operations on what is as good authority as any—the opinion of the Supreme Court—would be caught in the proposition of paying, not treble damages, but damages that would consist of a sixfold increase.

There are other examples. I refer to the White Motor Co. case, and also the Federal Trade Commission ruling on newspaper advertising of retail druggists.

There a bulletin was released by the Federal Trade Commission saying that this type of newspaper advertising is not valid and violates the antitrust law. In reply to that, and in short order, the Antitrust Division of the Department of Justice came out with a ruling saying, "This type of newspaper advertising is valid, and it does not violate the antitrust law."

What is a businessman to do under those circumstances? He has to proceed at his own hazard.

The amendment that is proposed here would say not only that, but would also say that if one has guessed wrong, then he will pay a sixfold burden instead of the treble damages that are now proposed.

Yet, the proposed amendment would impose a mandatory penalty in such an instance, a punitive action making the treble damages equivalent to a fine paid to the Government—that is, they would be nondeductible as ordinary and necessary business.

Situations for punitive damages should be provided in criminal statutes with opportunity for the court to exercise the same kind of judgment as to severity as in other criminal cases.

It should be noted that there is pending in the Senate now a bill calling for an increase in Sherman Act violation fines, raising the maximum from $50,000 to $500,000. That is a tenfold increase over what it is today.

Deterrents in these cases can be adequately exercised and will have a proper deterrent effect upon those who had contemplated conduct that would be criminal in character in this field.

And there, of course, would enter the committee amendment. There would be a criminal trial. And there would have to be a conviction and a sentence before the nondeductibility would attach to the treble damages which are awarded later on in a civil suit.

So we have some sense in that part and some protection against the harshness which otherwise would be visited upon the business of commercial firms of the Nation.

It is clear that the proposed amendment depends on inherently uncertain enforcement factors. Its provisions are not sufficiently related to the seriousness of the related and pertinent offense.

It is intrinsically unfair and should be rejected.

The amendment would militate against another well imbedded principle of antitrust law that has been the case ever since antitrust law was enacted originally, and that is that the settlement of cases should be encouraged.

The imposition of nondeductibility on treble action cases will force defendants in those cases to engage in protracted and extensive and expensive litigation. They would have no other recourse whatsoever.

And because of the nature and the harshness of the penalty that would be imposed upon them, with the protracting of these lawsuits, with their multiplication, and their increase in number, the already overcrowded courts would be clogged even further, not only for the purpose of trying antitrust cases, but also for all other purposes.

This is not the time. This is not the way. This is not the fashion in which we should consider penalties for antitrust violators.

The income tax law ought not to be prostituted with that end and with that goal in mind.

That is exactly the attempt that is being made. The amendment should be rejected.

We ought to consider criminal penalties that are this severe and this harsh in the proper fashion when we could apply the rule that goes with penology, a rule that will have some purpose in getting at the matter of sentencing.

We should not do that in this meat cleaver way.

I hope the amendment will be rejected.

Mr. TALMADGE. Mr. President, I ask if the Senator from Nebraska and the Senator from Michigan are willing to agree to a time limitation of 10 or 15 additional minutes to the side. Would that be agreeable?

Mr. HART. Mr. President, there would be on objection on my part. The Senator from Nebraska has made a full explanation of his position.

Mr. HRUSKA. Is there any desire on the part of any of our colleagues to be heard?

Mr. TALMADGE. Mr. President, I will speak briefly on this amendment.

The House bill did not have any item relating to this particular feature. The Senate bill included a provision which would disallow as deductions fines and penalties paid to the Government for violations of any law and a provision which would disallow deductions for two-thirds of the amounts paid as treble damages for criminal violations of the antitrust laws. In 1965, at the direction of the distinguished chairman of our committee, who was then chairman of the Small Business Committee, our staff did a detailed study of this entire area.

Part of the report reads as follows:

> Under the bill there would have to be a conviction in a criminal prosecution before deductions would be denied for treble damage payments under the antitrust laws and bribes and kickbacks of other than public officials. Except where payments to the public officials are involved, it appears undesirable that a revenue agent be permitted to determine whether a taxpayers' payment to a third party is in violation of a law. If an agent is granted such authority, the deduction of the payment is disallowed unless the taxpayer—carrying the burden of proof—establishes in court that he is innocent of the violation. It is understood that this is the present position of the Internal Revenue Service. On the other hand, if the taxpayer had been convicted in a criminal proceeding, he was protected by the requirement that the prosecutor must prove him guilty beyond a reasonable doubt. In such a case it is clear that the taxpayer's payment was in violation of the public policy involved.

That is a provision of the Finance Committee bill. It appeared to the Finance Committee that it would be dan-

gerous, indeed, to set up a system that would encourage lawsuits. If A sued B and won that lawsuit, B could not deduct his losses, and A would not have to report his gains. In other words, he would win a lawsuit and have tax-free income. I think that is an extremely dangerous policy.

That is what the amendment of the Senator from Michigan provides, and it goes even beyond that. It makes it retroactive to a degree that if a cause of action arose before this bill becomes law and a recovery is made after this bill is signed into law, the same situation would arise. I do not know of anything more dangerous than to say to a taxpayer, "You go out and sue somebody, and if you recover a judgment, you do not have to pay income taxes on what you collect, and the man you recovered from cannot deduct his expenses."

I urge the Senate to reject the amendment.

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

Mr. TALMADGE. I yield.

Mr. HRUSKA. Mr. President, the purpose of the bill is to close loopholes for taxpayers. It seems to me that the creation of this nonreportable income in the case of recipients creates a loophole of gigantic proportions, and it would be available to literally thousands of people engaged in business, even if there were no criminal conviction of the defendant in the original instance, as a hard-core antitrust law violator.

Is that not true?

Mr. TALMADGE. I agree with the Senator. I think it would create a new loophole.

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

Mr. TALMADGE. I yield the floor.

If the Senator will conclude his remarks, and if the Senator from Nebraska has concluded, and if the distinguished chairman does not want to make a statement, that concludes our argument.

Mr. President, I ask unanimous consent that we vote on the pending amendment at 6:10 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HRUSKA. I am ready to vote now.

Mr. HART. Mr. President, I think that perhaps the Senator from Georgia overstates the extent to which the sums paid would be nondeductible. Only two-thirds would be nondeductible, and to the extent that the recipient would be exempt from the payment, that would be true with respect to only two-thirds. But he is correct in saying that the effect of this amendment would be to encourage lawsuits. This, indeed, is a purpose of the amendment.

Given the limitations of personnel of the Department of Justice, a most effective salutary plus in antitrust enforcement would be the self-help road of civil damages. That, in my book, is what section 4 had in mind. I think we will advance antitrust enforcement by the adoption of this amendment and, rather than it being an objection, I think it is an argument for it.

Mr. BAYH. Mr. President, I salute the Senator from Michigan for bringing to the attention of the Senate what is a gross injustice; namely, permitting the treble damages in antitrust actions to be assessed, in reality, on the taxpayers as a whole by having them deducted as a business expense.

While I recognize the injustice of this practice, I feel compelled, nevertheless, to vote against the amendment of the Senator from Michigan. I have discussed this with him earlier.

My concern centers on the fact that in purely civil treble damage cases, the amendment can be applied retroactively. I am not concerned about those cases where civil action follows a criminal prosecution, but the Senator goes one step further and covers treble damages in purely civil cases that originated prior to the date of enactment.

Again, I salute the Senator from Michigan for being a watchdog on this matter.

Mr. TALMADGE. Mr. President, I ask unanimous consent that we vote now on the pending amendment.

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

The question is on agreeing to the amendment of the Senator from Michigan. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would 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.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 25, nays 66, as follows:

[No. 212 Leg.]

YEAS—25

Burdick	Inouye	Mondale
Byrd, W. Va.	Jackson	Moss
Church	Kennedy	Muskie
Cranston	Magnuson	Nelson
Dodd	Mansfield	Pell
Eagleton	McGee	Proxmire
Gravel	McGovern	Yarborough
Hart	McIntyre	
Hughes	Metcalf	

NAYS—66

Aiken	Dole	Hollings
Allen	Dominick	Hruska
Allott	Eastland	Javits
Baker	Ellender	Jordan, N.C.
Bayh	Ervin	Jordan, Idaho
Bellmon	Fannin	Long
Bennett	Fong	Mathias
Bible	Goodell	McClellan
Boggs	Gore	Miller
Brooke	Griffin	Montoya
Byrd, Va.	Gurney	Murphy
Cannon	Hansen	Packwood
Case	Harris	Pearson
Cook	Hartke	Percy
Cotton	Hatfield	Prouty
Curtis	Holland	Randolph
Ribicoff	Smith, Ill.	Thurmond
Russell	Sparkman	Tower
Saxbe	Spong	Williams, N.J.
Schweiker	Stennis	Williams, Del.
Scott	Stevens	Young, N. Dak.
Smith, Maine	Talmadge	Young, Ohio

NOT VOTING—9

Anderson	Goldwater	Pastore
Cooper	McCarthy	Symington
Fulbright	Mundt	Tydings

So Mr. HART's amendment was rejected.

Mr. HRUSKA. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. TALMADGE and Mr. LONG moved to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 351

Mr. YARBOROUGH obtained the floor.

Mr. TALMADGE. Mr. President, will the Senator from Texas yield to me for a unanimous-consent request?

Mr. YARBOROUGH. I yield.

Mr. TALMADGE. Would it be agreeable to the Senator from Texas for a 40-minute limitation on his amendment, when it is called up, with 20 minutes for each side?

The PRESIDING OFFICER. The Chair would inform the Senate that the amendment has not yet been presented to the Senate.

Mr. YARBOROUGH. I should like to have a time limitation of 1 hour, with 30 minutes to a side, if that is agreeable to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I ask unanimous consent that there be a time limitation on amendment No. 351 to be offered by the Senator from Texas, with the time to be equally divided, 30 minutes to a side, to be handled by the distinguished Senator from Texas, and the floor manager of the bill.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Georgia? The Chair hears none, and it is so ordered.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the amendment of the Senator from Iowa (Mr. MILLER) be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. YARBOROUGH. Mr. President, I call up my amendment No. 351 and ask that it be stated.

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The amendment will be stated.

The bill clerk read as follows:

On page 420, beginning with line 21, strike out all through line 9 on page 421.

Mr. YARBOROUGH. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. YARBOROUGH. Mr. President, my amendment No. 351, to H.R. 13270 would delete from the tax bill a provision which would exempt certain gas pipeline contracts from the repeal of the 7 percent investment tax credit.

One of the most significant tax reform proposals contained in H.R. 13270 is the repeal of the 7 percent investment tax credit. It is widely recognized that the investment tax credit has long since out-

lived any usefulness that it might have ever had and is now nothing more than a vast loophole through which the Government loses billions of taxable dollars each year.

H.R. 13270 provides for the permanent repeal of the investment tax credit in the case of property acquired or construction which is begun after April 18, 1969. However, to avoid economic injustice to those taxpayers who have commenced construction or acquired property pursuant to a binding contract entered into before April 18, 1969, the bill specifically exempts such taxpayers from the repeal of the investment credit and makes the credit available to them. This is a fair and reasonable exemption since it has never been the policy of this country to penalize those who in good faith have relied on existing laws.

Unfortunately, H.R. 13270 does not stop with this one justified exemption from the general repeal of the investment tax credit. There has also been inserted into H.R. 13270 a special exemption for gas pipeline contracts which cannot be justified on any basis except that its proponents desire additional special treatment for an industry which is already specially protected and specially favored by our laws. The exemption to which I refer may be found on page 420, at line 21 of H.R. 13270 and provides:

(B) Where, in order to perform a binding contract of contracts in effect on April 18, 1969, (i) the taxpayer is required to construct, reconstruct, erect, or acquire property specified in any order of a Federal regulatory agency for which application was filed before April 19, 1969, (ii) the property is to be used to transport one or more products under such contract or contracts, and (iii) one or more parties to the contract or contracts are required to take or to provide more than 50 percent of the products to be transported over a substantial portion of the expected useful life of the property, then such property shall be pre-termination property.

On its face this seemingly innocuous language would not appear to be a vehicle for serving special interest. However, on closer examination it is clear that the only purpose for this provision is to grant to certain gas pipelines a special privilege in dealing with the investment tax credit which no other industry or taxpayer in America has.

The taxpayers in my State and in other States are paying through the nose in income taxes to grant special privileges to 29 companies by granting them a largess of $49 million.

To appreciate the necessity for striking this insidiously clever provision from H.R. 13270, it is important to understand: First, the nature of a gas pipeline contract; second, why there is no reason for a special treatment of these contracts; and, third, the history of the gas pipeline industry and the investment tax credit.

A gas pipeline contract, unlike the other contracts, to which the exemption from the repeal date of the investment tax credit applies, is not a contract for the purchase of capital goods, but is a contract for service or supply. That is, the gas pipeline contract obligates the company to supply its customers with a specified number of units of natural gas. Nowhere in this contract between the company and the customer does the gas pipeline company obligate itself to build or expand its facilities to perform the contract. However, section 7C of the Natural Gas Act of 1938 requires:

No natural-gas company or person which will be a natural-gas company upon completion of any proposed construction or extension shall engage in the transportation or sale of natural gas, subject to the jurisdiction of the Commission, or undertake the construction or extension of any facilities therefor, or acquire or operate any such facilities or extension thereof, unless there is in force with respect to such natural-gas company a certificate of public convenience and necessity issued by the Commission authorizing such acts or operations . . .

Therefore, until the FPC grants the gas pipeline company a certificate of public convenience and necessity, the company cannot lawfully fulfill its contract to the customer. Thus, the certificate is a necessary prerequisite to a valid binding gas pipeline contract.

In determining whether to grant a certificate to a gas pipeline company, the FPC takes into consideration whether the proposed expansion in service is physically and economically feasible. The FPC will, and often does, allow a gas pipeline company to withdraw its application for a certificate upon a showing of just cause. The "just cause" for which an application may be withdrawn might well include a showing by the company of a loss in profits by the repeal of the investment credit.

In other words, if they cannot make a profit on their investment, they can get the order rescinded.

Furthermore, the regulations of the FPC afford a company with a way of having the application dismissed by the FPC. Section 157.12 of the FPC regulations provides that in the absence of a showing of good cause, "failure of an applicant to go forward on the date set for hearings and present its full case in support of its application will constitute grounds for summary dismissal of the application and the termination of the proceedings." Therefore, without showing just cause, an application can be dismissed by inaction on the part of the gas pipeline company.

I point out that there is no binding contract. They have applications pending. They can play them like the keys of a piano. They can let them die or pursue them by the diligence with which they pursue them or by the lack of diligence with which they pursue them. So they do not have binding contracts. Until that certificate is issued by the Federal Power Commission, they are not bound to do it.

What this amounts to is that gas pipeline companies are not subject to the same economic hardships as taxpayers who have bound themselves contractually to construct, reconstruct, or acquire property.

They do not have to acquire or reconstruct the property unless they want to, because, unless they diligently pursue it, they will not have that obligation, and they are not under the same obligation other taxpayers are.

The simple truth is that without the certificate of public necessity the gas pipeline company is not contractually bound to do anything. This gives the gas pipeline company the right to have the benefit of the investment tax credit for contracts that it may void at will.

They have an option to construct or not to construct. It is not like a binding contract.

There is no justification for this type of special advantage.

As I have previously pointed out, these gas pipeline contracts are not binding on the company in the absence of a certificate of public necessity and convenience. Thus, this special exemption is not justified. Are there any economic reasons for this special treatment? A review of the facts clearly reveals that the answer is "No."

The gas pipelines are strong and financially healthy. It is one of the very few operations in America which is guaranteed a profit by the Federal Government.

It is the one utility group whose rates charged for natural gas are regulated by the Federal Power Commission so as to assure them a reasonable profit. So they are going to have their profit without the investment credit. The rates charged for natural gas are regulated by the FPC so as to assure the gas pipelines a reasonable profit each year. Very few other industries in America can be assured that, year in and year out, they will be operating in the black.

Since 1958, the revenues and assets of the gas pipeline companies have doubled. According to a recent industrial survey conducted by Standard & Poor's, the revenues of gas pipeline companies are expected to reach new highs in 1969. The American Gas Association estimates that gas sales in 1969 will reach 152,650 million therms. This is an increase of 5.7 percent from 1968.

The outlook for future growth is also quite encouraging. The American Gas Association estimates an increase in sales of 6 percent for each year from 1967 to 1980. By 1985, gas utilities sales are expected to reach 356 billion therms. This is an increase of 144 percent from the amount of gas sold in 1968.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAVEL in the chair). The Senator will state it.

Mr. YARBOROUGH. How much time do I have left?

The PRESIDING OFFICER. The Senator has used only 10 minutes of his time.

Mr. YARBOROUGH. Mr. President, in addition to the increase in sales, the rate of return to the companies is also increasing. At present, the rate of return on old contracts is between 6½ to 6⅔ percent. However, the FPC recently granted one company an annual rate of return of 7¼ percent. There are numerous other applications pending before the FPC which request returns of 8 to 8½ percent.

The alleged purpose behind the enactment of the investment tax credit in 1962 was that it would encourage business investments in new machinery and equipment. The plain facts reveal that the large gas pipelines companies never needed enactment of the 7 percent investment tax credit; the large gas pipeline companies did not suffer from lack of growth, because they could already raise their rates enough to pay for any

replacement of equipment, and they never suffer from lack of growth.

From 1957 to 1961, the net investment in gas utility plants rose from $6 to $8 billion. After the enactment of the investment tax credit, the net investment in gas utilities plants grew at about the same rate, $8 to $10 billion. It did not need the stimulus of the investment tax credit to get them to grow. This clearly shows that the investment tax credit was not needed to stimulate growth.

The whole history of the investment tax credit and the large gas pipeline companies has been one of special and unjustified favoritism over other companies in our economy.

To begin with, the gas pipeline was allowed the 7-percent credit whereas the other major public utilities were allowed only 3 percent. What was the reason for this? I submit that the only reason for it was the strength of the gas pipeline industry's lobby.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the time taken to get order not be charged out of my time.

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

May we have order, please?

Mr. YARBOROUGH. I again ask unanimous consent that the time to restore order not be taken out of my time.

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

The Senator will continue.

Mr. YARBOROUGH. Furthermore, the FPC is prohibited by a 1964 amendment to the Internal Revenue Act from treating a reduction in income tax, arising from the investment tax credit, as a reduction in the gas pipeline cost for determining rates.

Let me repeat that. Under the Internal Revenue Act there is a provision that they cannot treat a reduction in income tax credit as a reduction in the gas pipeline cost for determining rates.

Thus, a gas pipeline company is free either to retain the tax savings for reinvestment or payments to stockholders, or pass along the tax savings to its customers in the form of volunteer rate reductions. It should come as no surprise that, according to figures compiled by the FPC in 1967 alone, more than 94 percent of the amounts generated and utilized by gas pipeline companies from that investment tax credit was retained by the companies and less than 6 percent passed on to the consumer by rate reductions.

They just took that 7 percent and put it in their pockets.

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

Mr. YARBOROUGH. I yield.

Mr. LONG. Mr. President, does not the Senator recall that when we passed the investment tax credit law, we expressly provided in that law that it was intended to encourage the construction of new transportation facilities? Not just pipelines, but railroads, airlines, and other transportation facilities got the 7-percent investment tax credit. We specifically said, in section 207—depending on whether you look at the House bill or the Senate bill it was section 207(e)(2) or 202(e)(2)—that it was intended that they be permitted to keep the 7-percent investment tax credit to encourage them to improve the transportation facilities of this country.

Mr. YARBOROUGH. Mr. President, as I just pointed out, gas pipeline companies already have built-in protection in that they are guaranteed a profit by the Federal Power Commission. Those companies were building and expanding rapidly before the investment tax credit was ever instituted.

Mr. LONG. Mr. President, they would have cut the activity down. It would have gone down.

Mr. YARBOROUGH. That conclusion is too speculative. The facts reveal that these companies were experiencing rapid growth when the investment tax credit was first passed.

This provision of H.R. 13270, which my amendment is designed to eliminate, is the sort of special interest legislation which has generated the present demand for tax reform by the majority of the people of the United States. Our people are tired of carrying the greater portion of this Nation's tax burden while their own elected representatives write special exemptions into the tax laws for big business.

The people of the United States have challenged the 91st Congress to reform this Nation's tax laws. They expect their interest to come first for a change. Special exemptions and favortism for these companies that are sound financially is not needed—I have no prejudice against gas pipelines, we need them; they perform a vital service; my State produces a lot of gas, and we need a market for it. I remember when flares burned all over Texas and there was no market for the gas. However, today these companies are doing very well. Therefore, I think the 11 million people of my State are more entitled to tax relief, than the 29 companies who would get the $40 million largesse under this provision.

I submit that it is time for Congress to turn its attention to problems and needs of average Americans. These people cannot afford expensive lobbying efforts to get their point of view across. They must depend on us to represent them. I hope we will show them that we are concerned by closing this loophole.

I urge all of my colleagues to join with me in remedying this inequity. The total estimated cost of the applications for certificates for public convenience and necessity pending before the Federal Power Commission on April 18, 1969, was $611,874,000. As adjusted to reflect the property subject to the investment tax credit, it would be $570 million. This means that approximately $40 million would be available to these 29 companies under the provision in the House and committee bills.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, I yield myself such time as I may require.

In repealing the investment tax credit, the House of Representatives wrote into its bill the provision that the Senator seeks to strike. This is not something the Senate Finance Committee did. The House did it. We thought they were right, and so we did not change it.

Let me explain what we are talking about. Here is a situation where a pipeline signs a contract with its customer to deliver more gas to that customer. The customer can be a city or some other unit of government. This is a binding contract to deliver more gas. Let us say, just for the sake of argument, that they are going to have to deliver twice as much gas as they are delivering now because of industrial expansion and a population increase in the area.

When that contract is signed, it is a binding contract on the pipeline to deliver, and on the customer to take, the additional gas that will be transported. The pipeline company is then bound to apply to the Federal Power Commission for permission to loop its pipeline, to use the term by which that is usually referred to. To loop the pipeline means to lay another pipeline alongside the one already in place. But with that binding contract in effect, subject to the approval of the Federal Power Commission—and the Federal Power Commission looked at the rates to be charged, the desirability of the service, and all the rest of it—the pipeline company cannot back out of that contract, and neither can the city or other governmental unit. They are both bound by their contract. The Federal Power Commission approves the contract, and then the pipeline company must construct the additional pipeline.

In view of the fact that they are committed to build the pipeline, subject only to the approval of the Federal Power Commission, that is a binding contract. The same thing would apply, Mr. President, to other types of contracts. Under an ordinary contract to erect a plant on a plantsite, if a contract was in effect prior to April 18, the company would be eligible to receive its investment tax credit, because the company in making its plans, was relying on the tax law as of the time it signed the contract in determining whether its investment would be profitable or unprofitable.

If you are considering buying a piece of land, and you have an option to buy it, the option will say that the seller must provide good title, and he might even have to go to court to cure his title in order to deliver. It might be subject to that condition, but it is a binding contract which every court recognizes.

There are other parallel situations in this bill, and in every case where this type of adjustment was asked, we gave it to those who asked for it. Let me point out some of the situations we had. Keep in mind, the Senator wants to strike what the House of Representatives did, and what the Senate Finance Committee agrees with in the House bill. We did not even amend this section.

Let us talk about some of the things we did in committee. The committee heard testimony from coal industry representatives which, in effect, said, "I have signed a contract to deliver coal. That means I will have to open this coal mine, and in order to open the coal mine and deliver the coal, I will have to acquire machinery."

The committee considered this situation to involve a binding contract which

makes it necessary to acquire additional machinery in order to meet its obligation. In treating this as a binding contract we acted in the same way that Congress did in 1966 when it suspended the credit.

The aircraft companies appeared before the committee to state that they have binding contracts to deliver a new type of airplane. In order to deliver the airplanes, they must acquire the machinery with which to manufacture the airplanes, otherwise the planes cannot be delivered. The price charged for the planes was dependent on what it would cost to acquire the machinery, assuming availability of the investment credit, to manufacture them. That provision is right here in the bill, and the Senator is not seeking to do a thing about that. The House saw that the problem existed with regard to Lockheed Aviation Corp., and they wisely took care of that problem by providing a carefully phrased transitional amendment.

Mr. President, that was right. The Senate Finance Committee looked at the House proposal, found that McDonnell-Douglas had exactly the same problem—technically different, but exactly the same in justice and equity—and we added an amendment to provide the same transitional adjustment.

An adjustment was made for contracts to build a new type of oceangoing ship, which will carry loaded barges aboard the ship, and the barges are used to deliver the product to the final customer. There was the contract for the ship—no problem there—but the contract had not yet been signed for all of the barges, because they did not require as long a lead-time. But, the ship would be of no use without the special barges to go aboard that type of ship. The House and the Finance Committee decided that this is a transitional situation to which the investment tax credit should apply.

There also was a problem with regard to a contract to build a shopping center. That provision was in the 1966 law to suspend the credit where someone had signed a contract to lease space in a shopping center. The shopping center had to be built in order to provide the space.

The contract is signed to provide space in a shopping center which does not exist, but which is going to be leased. Let us say the lessee is supposed to move into that space on the 1st of next year, or in 6 months. The shopping center owner has not signed a contract with the man who is going to build it, but he has signed a contract to provide the space for the lessee to move into. He has no choice but to build the shopping center.

In this case, a contract was signed which leaves no choice with regard to the second contract.

That principle was followed consistently. We treated them all the same in that respect.

I regret that the Senator from Texas seems to have difficulty with respect to pipeline companies. However, when we passed the investment tax credit, we said that it applied to pipeline companies as well as any other company.

When we voted for the investment credit we were providing this incentive for the railroads, and for the airlines, and for the truckers, and for anybody in any line of transportation or any other industry to make it more profitable for them to modernize their plant and equipment, and to improve their service. We said it was an incentive to all industry, not just pipelines. We said that everybody would get this investment credit as an incentive to make the American economy more productive and American industry more competitive in world markets.

When we considered the repeal of the investment credit we treated them all the same in common justice and common equity. We have not discriminated against anybody. Everybody and every company who is bound and committed as of April 18, 1969, to build a plant or acquire a machine or equipment, if they have a binding commitment that requires them to perform, would not be prevented from receiving the investment tax credit under the Finance Committee bill. The committee applied the same principle to every similar situation.

That is the only way we could be just and fair.

To adopt the Senator's amendment, in my judgment, would be extremely unfair, particularly after we had accepted this principle and extended it to other situations which the Senator would not challenge with his amendment.

Mr. SPARKMAN. Mr. President, do I correctly understand from the Senator's statement that everybody, not just the transportation segments of our economy, but everybody who is obligated in some way prior to April 18, 1969, to do some building or expanding, would still have the investment tax credit pertain to him?

Mr. LONG. Mr. President, let me make it more explicit. Many witnesses who came before the Finance Committee testified that they had a binding contract that require them to acquire some machinery or build something on which they expected to receive an investment tax credit in order to perform the contract. The fact that they had not signed a binding contract for the machinery should not deny them the benefit of the investment credit in this situation.

Mr. SPARKMAN. Mr. President, let me go a little further. I did not use the term contract. I used the word "obligation." In other words, if they are obligated to move forward, do I understand that situation applies whether it is a manufacturing plant or a transportation industry or communication industry or whatever industry it might be?

Mr. LONG. It applies generally to many different situations. However, it is not drafted to apply to everything. It could not be. We drafted it to apply to those situations directed to our attention. I put it this way, if the Senator from Alabama were standing on the floor and offered an amendment and said, "Look. You did not seem to know of this situation. However, in addition to the situations you provide for, we have a situation in Alabama which is slightly different that you have not covered."

We would say, "Well, fine. Offer an amendment because we have done this for others who have a similar problem."

So, we would put a provision in the language of the bill to take care of this situation.

We have been consistent in that we did not draft our language to go beyond the type of problems directed to our attention.

We tried to provide fair and equal treatment. When it was called to our attention that the House had provided for Lockheed but not the McDonnell-Douglas, we said, "Let's apply the provision to McDonnell-Douglas equally as well because the situations are the same." We took different language, but the problem was the same.

Mr. SPARKMAN. Mr. President, I appreciate the explanation. I should like to make this further comment. I believe the first time the recommendation was made to Congress for some kind of investment tax credit, it was made in a report. There was a study by the Small Business Committee. The study was made in 1952, and the Senator was a member of that committee.

I have always believed in the investment tax credit. I believe in it strongly. And I say very frankly that I think the action in repealing the investment tax credit, even with these exceptions, may be necessary on a short-range basis, but on a long-range basis, I think it is bad. I think it is shortsighted. I think we ought to have an investment credit allowance.

I believe that most of the industrial countries in the world do have one and have one much greater than we have had.

I hope the time will come when the economy will be strong enough so that we can reestablish a good investment credit provision.

I would hate very badly to see us repeal it, even though we are not happy with the manner in which we had to handle it a few years ago when we voted to suspend it for a certain period of time and then reinstate it.

If it is necessary for us to do something at this time, I would rather not see it done away with, which would naturally make it more difficult to reinstate.

I believe we ought to have in investment tax credit allowance. We ought to have some regard for what other industrial countries do.

By the way, let me say this: I recently talked with the president of one of the largest chemical manufacturing companies in this country, and he told me that his company was building a big plant in Germany, a tremendous plant. I was impressed by what he said to me. He said, "I hate to do it, but I can't keep from doing it. Over there they give me a 40-percent investment credit. In addition, they lend the money on very liberal terms, and they also have an export subsidy."

That is what we are up against in trying to sell in the world market.

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

Mr. LONG. I yield.

Mr. STEVENS. The Senator from Louisiana is familiar with our situation in Alaska. We have a pipeline that three companies agreed to build. They are not required by any order to build it. They agreed with one another to build it. It is all in the State of Alaska, even though

it is 800 miles long. Therefore, they did not make any application to the FPC.

As I understand the Senator's statement of policy, which I think is very fair, they would have to have had an agreement with a third party to deliver the oil in order to qualify as this gas pipeline qualifies to deliver the gas.

Am I correct that this is the only thing that differentiates our Alaskan pipeline, the reason why our Alaskan pipeline was left out, as compared with the Texas pipeline?

Mr. LONG. There are two differences. One is that you have to have the contract to deliver. Also, this amendment requires that the equipment that is going to be needed must be specified. Neither of those requirements could be met by the Alaskan pipeline, so far as I know.

Mr. STEVENS. I intend to call up an amendment in a little while, depending upon the outcome of this amendment, as the chairman knows. But it is my understanding that invitations to bid were let out in February of this year and that we are actually proceeding on a pipeline, whereas the Texas pipeline may not be built for a couple of years.

Mr. LONG. I was hoping the Senator would not ask me to debate the Alaskan pipeline in comparison with these pipelines. We will face that pipeline when we get to it.

Mr. STEVENS. I wanted to get the facts with regard to this pipeline. Is there any property that has been ordered for this pipeline? Have they ordered the steel?

Mr. LONG. The pipelines to which we are making reference in this provision involve situations where there is a binding contract to deliver the gas, where the equipment that will be needed is specified in an application that is subject to Federal Power Commission approval, and where the contract for constructing the pipeline cannot be signed until the Federal Power Commission approves it. Sometimes the Federal Power Commission is slow in approving these things.

Mr. STEVENS. I thank the chairman.

Mr. YARBOROUGH. Mr. President, I yield myself 4 minutes.

The examples given by the distinguished Senator from Louisiana of coal mines, of manufacturing airplanes, of building a shopping center have no relevancy to the amendment under consideration. They are not cases in point.

On the contrary, we are dealing here with gas pipeline companies that are public utilities and are guaranteed a profit by the Federal law. These rates are fixed so as to assure them a profit. So all the nonutility examples the Senator has mentioned just beg the point. They simply are not relevant.

I say that the law and the facts are against the distinguished Senator from Louisiana.

On page 240 of the report of the committee, in the last paragraph, appears an example:

> An example of the type of case covered by this provision would be a situation where a company has entered into a binding contract to buy or sell fuel and is required to construct a new pipeline or add capacity through an existing pipeline in order to transport such fuel.

Mr. President, that contract is binding only when the Federal Power Commission enters an order granting the company a certificate. My amendment is directed at cases where no certificate has been granted, therefore the company can, at will, withdraw or let lapse its application. Consequently, this gives them the right to determine in the future whether they will create a binding contract. Those contracts to sell fuel are not binding if the company does not obtain permission to build or expand its facilities. It is a matter of general knowledge that often they do not push these applications. In such event it is automatically dismissed.

Consequently it takes a definition of law created by this bill to create the idea that these are binding contracts when in reality they are not. They are not binding, because without this definition in the bill, if the general binding contract provision, would not apply to these contracts. If they had a truly binding contract before April 18 why would they need this provision? I submit that they would not have to write this special provision into the law if these contracts were in fact binding. In truth, they are not binding. Since they are not binding, this provision is necessary if they are to continue to have the benefit of the investment tax credit.

When the investment tax credit was passed, it was hoped that the profits would be passed on to the consumer. However, 94 percent of the amounts generated and utilized by these companies from the investment tax credit are retained by these companies, and less than 6 percent is passed on to the consumers in rate reductions.

I have no prejudice against these pipelines. I recall 30 years ago when the skies of Texas were red at night with gas wasted, and we wanted and needed the pipelines. They give us a market and an opportunity to sell the gas produced in Texas. Much of the byproducts of oil were then burned in the air without the pipelines. But I say, on behalf of the other 11 million people of Texas, it is not right to have 29 companies make contracts after the date of this law and get this $40 million benefit and while other millions of taxpayers in my State reach down into their meager earnings and savings and pay a high price for gas from these companies who obtain this tax break.

The law says that if you have a binding contract on April 18, 1969, you are protected. They do not have binding contracts, and that is why they need a special provision in the law to continue to have the benefit of the investment tax credit.

I yield the floor.

Mr. LONG. Mr. President, how much time do I have left?

The PRESIDING OFFICER (Mr. HARTKE in the chair). Twelve minutes.

Mr. LONG. Mr. President, on page 241 of the report is another example. The same basic principle is applied over and over:

> An example of the type of case covered by this provision would be a situation where a person is obligated under the terms of the contract to build an industrial gas plant—

That is usually a plant, as I understand it, that uses coal to manufacture gas—

> which is specified in the contract for the purpose of supplying the industrial gas to a steel or chemical company. Another example of a type of case covered by this provision would be a situation where a coal company must acquire equipment (including items such as a bulldozer which removes overburden) in order to carry out a binding contract under which the company is obligated to open new coal mines on specified mineral properties.

We proceeded upon the very principle which was applied similarly to a number of other concerns where the same principle was equally applicable. It would be extremely inappropriate to deny the same consideration to pipelines when they are bound to construct the pipelines to deliver more gas. When they negotiated their contract with the city they had in mind the prices they could charge under the assumption that they would receive the investment tax credit.

That is a binding contract subject to Federal Power Commission approval. It would be inappropriate to deny those pipelines that consideration, when the same principle has been extended to everybody else who had a similar problem.

I hope the amendment will be agreed to.

The Senator from Delaware (Mr. WILLIAMS) expressly asked the Treasury when they appeared before the committee, "Do you approve of this particular provision that the House has agreed to with regard to pipelines?"

The Treasury said, "We approve of it."

It is because the principle was approved and agreed to by the Treasury and by a majority of the committee and by the House of Representatives that we extended it to other similar situations.

Those cases are equally justified, and no one has suggested that they be stricken out. I do not think they will, because the principle is correct. It should be extended to anyone who is similarly obligated to construct something under a binding contract, even though there is no construction contract but there is a contract that made the construction contract necessary and from which they could not escape as of April 18.

Mr. YARBOROUGH. Mr. President, I wish to point out to the Senate that if a gas pipeline company has a contract in existence on April 18, 1969, with a gas pipeline contractor to build a pipeline, they are protected under the general provision. This special provision is not to protect a construction contract. On the contrary, this provision protects the contract in which the company must obtain a certificate from the Federal Power Commission, to be binding. There is no obligation on the company to fulfill the contract unless they get the certificate. This does not involve a contract to build a pipeline. It involves contracts to furnish or buy gas which requires an order of the Federal Power Commission to be enforceable. Whether or not they get that order depends on whether or not they ask for it. Many times these applications lie over at the FPC for years without action. I

am familiar with that procedure. They file the application in order to get ahead of some other company and then, if they want to activate it, they present their evidence. There is nothing binding on them at all.

The examples which the distinguished and able Senator from Louisiana read from page 241 of the committee report have no application to my amendment. They apply to construction contracts. That example does not refer to a public utility, guaranteed a profit. Under existing rates they would probably get a 7-percent return.

Mr. MONDALE. Mr. President, does the Senator yield?

Mr. YARBOROUGH. I yield.

Mr. MONDALE. Does the Senator know of any other industry that gets this kind of prospective treatment?

Mr. YARBOROUGH. I am advised that is the only industry in the bill that gets that prospective treatment on something that is not now a binding contract. This is a contract for services and it only becomes binding if they later get a permit from the Federal Power Commission. This does not refer to any existing contract to build a pipeline.

Mr. MONDALE. Mr. President, I would like to join the Senator from Texas in his measure and I ask to be made a cosponsor.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. MONDALE) be added as a cosponsor of the amendment.

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

Mr. LONG. Mr. President, I wish to make clear again that the contracts to which we are referring are contracts that were entered into by the pipeline company, which will be the seller, and the city, which will be the buyer of gas. An application for permission to construct the pipeline was filed with and must be approved by the Federal Power Commission. That specifies how big the pipeline is to be, the kind of pipe with which it is to be constructed, the size of the pipe, the diameter and the material. It also specifies what kind of pipeline must be built to deliver the gas. The whole transaction is binding on the buyer and the seller, subject to the approval of the Federal Power Commission.

We applied the same provision with regard to every industry that showed a similar problem and where there was a binding contract. We gave them the same consideration that was given to them in the House bill.

Mr. YARBOROUGH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. YARBOROUGH. Mr. President, I wish to point out, as explained in the Tax Reform Act reported by the committee, this would apply to a contract to buy or sell fuel not to a construction contract.

If one made a contract and said, "We will buy so much fuel from you in the future if we get a certificate from the FPC," and then, they let the contract lie there to see if they could get a contract to sell, then all they have is a nonbinding agreement, while they decide if the market is good enough to go through with it. They put their evidence before the Federal Power Commission to get the Federal Power Commission certificate in the future. Then, they make a contract to build the pipeline. This would grant the investment credit where there is no contract to build anything at all. It is not a contract. It is an agreement with a condition precedent and they control whether that condition is fulfilled, depending on the diligence with which they pursue our certificate.

Mr. President, this is a benefit granted to 29 companies. It is a $40 million gift to 29 companies. The record shows they build them when they get the chance because the Federal Power Commission guarantees a profit to them. We submit there is no reason for this type of privilege.

It is true the committee did not include it in here. I do not charge the Committee on Finance with including the provision in the bill. I believe that if the provision had been submitted to the Committee on Finance originally they would have turned it down. This was inserted in the other body over the objection of a Representative from my State. He opposed it on the floor of the House of Representatives.

Mr. LONG. Mr. President, again, let me say that we are talking about firm and binding contracts subject only to the approval of a regulatory commission that under the laws has to approve the contract before it can be carried out.

In view of the fact that they are binding contracts that require delivery of the gas and the equipment was specified the committee felt that the fact that the Federal Power Commission had not yet approved the construction of the pipeline needed to carry out the contract should not foreclose the pipeline companies from getting an investment credit to which they are entitled as a matter of justice and equity.

Again I wish to say that every other company that presented a similar problem was given the same consideration.

Mr. TOWER. Mr. President, I must voice my opposition to the amendment offered by my colleague from Texas. It eliminates a part of the Finance Committee bill which must be retained if we are to treat gas transmission companies fairly.

Simply stated, the committee merely provided a transition period for the application of new, increased taxes which will result from repeal of the investment tax credit. What the Finance Committee has done is to prevent the occurrence of a situation where a business attempting to act in accordance with the Government's understanding of what is in the national interest is penalized by government action.

We will have forced the pipeline companies to wait for FPC approval before expanding operations on the one hand, and then imposed a tax on them while they wait. This does not strike me as fair no matter how you look at it.

This is no loophole, Mr. President. The staff of the Committee on Finance, under the able leadership of the distinguished chairman of that committee, examined the circumstances under which pipelines would be granted the transition and wrote very "tight" provisions into the bill which restrict the use of the credit appropriately.

Now it has been argued that we should oppose the transition rules because the 7 percent investment tax credit never should have been extended to regulated industries in the first place. I do not happen to agree, Mr. President, but even if it were so we should not eliminate the transition rules.

The fact is that the tax credit was extended to regulated industries. They were not wrong or somehow immoral to make use of it. Their justified reliance on the credit, and their allowance for it in calculating expansion plans should not be punished merely because the tax credit was repealed while they were waiting for Government approval.

The committee bill protects a company or individual who had become obligated to purchase or construct equipment in order to perform a binding contract but, because of the necessity of the approval of a Federal regulatory agency, had not entered into a binding contract to purchase or construct the equipment necessary to complete the contract. Such a taxpayer who had bound himself as fully as was within his power and who was forced to await the approval of the Federal regulatory agency before proceeding to purchase or construct the equipment should not be penalized simply because he was subject to such regulation. This is especially true when the Federal approval is determined upon a finding that the contract and the purchase or construction of the equipment necessary for its performance are required by the public convenience and necessity.

Mr. President, the word "equity" has been bandied about quite a bit in this Chamber here lately. I think it is time we applied a little of it and rejected this amendment.

Mr. McINTYRE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. LONG. I yield.

SUBCOMMITTEE MEETING DURING SENATE SESSION TOMORROW

Mr. McINTYRE. Mr. President, I ask unanimous consent that the Subcommittee on Small Business of the Committee on Banking and Currency be permitted to meet during the session of the Senate tomorrow.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4293) to provide for continuation of authority for regulation of exports; and that the House receded from its disagreement to the amendment of the Sen-

ate to the bill and concurred therein, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7491) to clarify the liability of national banks for certain taxes.

The message further announced that the House had agreed to the amendment of the Senate to the bill (H.R. 9163) 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 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. 13763) making appropriations for the legislative branch for the fiscal year ending June 30, 1970, and for other purposes; that the House receded from its disagreement to the amendments of the Senate numbered 1 through 34, and 39 through 41 to the bill, and concurred therein; and that the House receded from its disagreement to the amendment of the Senate numbered 37 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. LONG. Mr. President, if the Senator from Texas is ready to yield back his time, I am ready to yield back the remainder of my time.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time.

Mr. LONG. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas. On this question the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPARKMAN (after having voted in the negative). On this vote, I have a pair with the Senator from Oklahoma (Mr. HARRIS). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. BYRD of West Virginia (after having voted in the affirmative). On this vote I have a pair with the Senator from Georgia (Mr. RUSSELL). If he were present and voting, he would vote "nay"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) would 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 36, nays 51, as follows:

[No. 213 Leg.]

YEAS—36

Aiken	Hart	Moss
Allen	Hollings	Muskie
Bayh	Hughes	Nelson
Bible	Inouye	Pell
Byrd, Va.	Jackson	Proxmire
Cannon	Kennedy	Randolph
Case	Magnuson	Ribicoff
Church	Mansfield	Schweiker
Cranston	McGee	Spong
Eagleton	McGovern	Williams, N.J.
Goodell	Metcalf	Williams, Del.
Gore	Mondale	Yarborough

NAYS—51

Allott	Fannin	Miller
Baker	Fong	Montoya
Bellmon	Gravel	Murphy
Bennett	Griffin	Packwood
Boggs	Gurney	Pearson
Brooke	Hansen	Percy
Burdick	Hartke	Prouty
Cook	Hatfield	Saxbe
Cooper	Holland	Scott
Cotton	Hruska	Smith, Maine
Curtis	Javits	Smith, Ill.
Dodd	Jordan, N.C.	Stennis
Dole	Jordan, Idaho	Stevens
Dominick	Long	Talmadge
Eastland	Mathias	Thurmond
Ellender	McClellan	Tower
Ervin	McIntyre	Young, N. Dak.

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Sparkman, against.
Byrd of West Virginia, for.

NOT VOTING—11

Anderson	McCarthy	Symington
Fulbright	Mundt	Tydings
Goldwater	Pastore	Young, Ohio
Harris	Russell	

So Mr. YARBOROUGH's amendment was rejected.

Mr. BENNETT. Mr. President, I have two amendments which are highly technical. They have been discussed with the chairman of the committee, the ranking minority member of the committee, and the Treasury, they are both acceptable. I would like to send them up to the desk and ask for their immediate consideration, but before I do so, without losing my right to the floor, I ask unanimous consent that I may yield to the Senator from Alaska for 2 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, earlier today, I offered an amendment pertaining to the Alaska pipeline. After examination of the code, section 49(b)(1), the committee report, and discussing the matter with the staff, I would like to withdraw that amendment. I ask unanimous consent that I may withdraw it at this time.

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

Mr. BENNETT. Mr. President, I ask unanimous consent that the pending amendment by the Senator from Iowa (Mr. MILLER) may be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The first amendment of the Senator from Utah will be stated.

The assistant legislative clerk proceeded to read the amendment offered by Mr. BENNETT, for himself, and Mr. MURPHY.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. GORE. Mr. President, I object. I want to hear what it is.

Mr. BENNETT. I will be glad to explain it.

The PRESIDING OFFICER. Does the Senator withdraw his objection?

Mr. GORE. I do.

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

The amendment is as follows:

On page 303, after line 25, insert the following new paragraph:

"(6) Notwithstanding any other provision in this subsection, the amendments made by subsection (a) shall not apply to a distribution of stock (or rights to acquire stock) made or considered as made before January 1, 1991, with respect to common stock if, except for this paragraph, such distribution would be taxable by reason of the existence of shares of a class of convertible preferred stock outstanding on April 22, 1969, which are issued not later than December 31, 1974, and if the terms of such convertible preferred stock provide that the conversion ratio thereof may be increased or decreased dependent, in whole or in part, upon the market value of the stock into which such preferred stock is convertible. The preceding sentence shall not apply in the case of shares of such convertible preferred stock (even if issued not later than December 31, 1974) if and to the extent that such shares exceed 25 per centum of the number of shares of common stock outstanding on April 22, 1969, but in no event more than 3,000,000 such shares."

Mr. BENNETT. Mr. President, the purpose of the amendment is to permit a company to issue a limited number of shares for a limited period of time in order to bring the total number of preferred shares up to a number where the stock would have some chance of attracting enough interest on the part of institutional investors to enable the stock to sell at its intrinsic worth.

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

Mr. BENNETT. I yield.

Mr. GORE. I find it all right.

Mr. BENNETT. I thank my friend.

Mr. President, I ask for a vote on my amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. BENNETT. Mr. President, I send another amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENNETT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

That subsection (e)(2) of section 333 of the Internal Revenue Code of 1954 (relating to the election as to recognition of gain in certain liquidations) is amended by adding at the end thereof the following new sentence:

"For purposes of this subparagraph (2), stock or securities acquired by a corporation after December 31, 1953, solely in exchange for stock permitted to be received under section 351 without the recognition of gain or loss, shall be treated as acquired before December 31, 1953 if the period for which the stock or securities is deemed to be held by the corporation, determined by applying section 1223(2), includes any period prior to December 31, 1953."

That subsection (f) of section 333 of the Internal Revenue Code of 1954 (relating to the election as to recognition of gain in certain liquidation) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (1), stock or securities acquired by a corporation after December 31, 1953, solely in exchange for stock permitted to be received under section 351 without the recognition of gain or loss, shall be treated as acquired before December 31, 1953 if the period for which the stock or securities is deemed to be held by the corporation, determined by applying section 1223(2), includes any period prior to December 31, 1953."

The provision of this section shall apply to liquidations occurring prior to January 1, 1971.

Mr. BENNETT. Mr. President, I would like to explain that this is an amendment which I have been asked to present by the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON). It is the policy of Congress to encourage liquidation of personal holding companies. In the State of Washington there is a holding company that cannot qualify technically because after the cutoff date of December 1953 it acquired additional stock. This stock, however, was acquired as a tax-free contribution to its capital from a contributor who acquired that stock prior to December 31, 1953.

Because of that condition, the Treasury has indicated that it feels this minor exception should be made.

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

Mr. BENNETT. I yield.

Mr. GORE. I would like to take a brief moment to pay tribute to the distinguished Senator. If he will permit a Southern Baptist to so characterize him, I would like to describe him as a Christian gentleman.

Mr. BENNETT. The Senator from Utah greatly appreciates that designation, but it puts a tremendous responsibility on the Senator from Utah to try to live up to it.

Mr. President, I ask that the amendment be accepted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment was agreed to.

Mr. CURTIS. Mr. President, I ask unanimous consent that the amendment of the Senator from Iowa (Mr. MILLER) be temporarily laid aside so that I may offer a conforming amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will read the amendment.

The assistant legislative clerk read the amendment as follows:

On page 115, after line 13, insert the following new subparagraph:

"(7) Section 508(e)—Section 508(e) shall not apply to require inclusion in governing instruments of any provisions inconsistent with paragraph (4) of this subsection.

Mr. CURTIS. Mr. President, this amendment does not change anything in the bill. It is a conforming amendment. It has been submitted to the staff. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

The amendment was agreed to.

Mr. HRUSKA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Does the Senator from Nebraska ask unanimous consent to lay aside temporarily the amendment of the Senator from Iowa (Mr. MILLER)?

Mr. HRUSKA. Yes; I ask unanimous consent that the pending amendment be laid aside temporarily for this purpose.

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

The amendment of the Senator from Nebraska will be stated.

The assistant legislative clerk read the amendment, as follows:

On Page 399, line 3, strike out "1969" and insert "1970".

On Page 401, line 9, strike out "1969" and insert "1970".

On Page 402, line 6, strike out "1969" and insert "1970".

Mr. HRUSKA. Mr. President, by way of explanation, yesterday the Senate deleted from the bill the provisions with reference to professional corporations and a limitation on the deductible contributions that they may make to pension funds.

There is a similar limitation on contributions to pension funds to be found in section 531, pertaining to subchapter S corporations. The purpose of this amendment is to postpone the effectiveness of section 531 until taxable years following December 31, 1970, instead of December 31, 1969. There has been consultation with the manager of the bill and with other members of the Committee on Finance. There appears to be a consensus that the effective date of section 531 should be set back for the same reason that section 901 was deleted; that is, to allow the Treasury Department ample time in which to complete its study, make its recommendations, and have the Finance Committee recommend such legislation as necessary in the entire pension field.

In my statement of yesterday I referred to the effect of section 531 of the bill. This provision would impose a limit of $2,500 or 10 percent of compensation, whichever is the lesser, on contributions to qualified pension and profit-sharing plans on behalf of shareholder-employees of subchapter S corporations. This limit would apply to taxable years beginning after December 31, 1969.

I concur in the belief of the Treasury Department that there are a number of matters in the deferred compensation area which need careful examination and that a comprehensive review of this area is necessary. In order to permit this review to be undertaken in an orderly fashion, the effective date of section 531 should be postponed for 1 year. As I said earlier, piecemeal amendments are a poor way to deal with difficult matters. The postponement that I recommend will afford us the required time to deal properly with this and related problems.

I call for a vote on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. LONG. Mr. President, this amendment would postpone for 1 year the retirement provisions under the new rules for subchapter S corporations. In view of the fact that this matter would be in conference in any event, I am willing to take this amendment to conference. It might be desirable to take more time to study the matter before it goes into effect. I personally do not object to the amendment, and I do not believe the other members of the committee do, either.

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

Mr. LONG. I yield.

Mr. GORE. I find serious objection to this proposal. It permits professionals—especially the doctors who have large incomes—to be taxed as a partnership, but still have the benefit of corporate pension and profit-sharing plans.

I do not know why the Senate seems determined to confer such undeserved tax reduction benefits for retirement plans of high-income taxpayers. That is not right.

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

Mr. GORE. I simply cannot stand here and let this happen unless the Senate is advised. That is all I have to say.

Mr. HRUSKA. Mr. President, we dealt with the section dealing with professional corporations yesterday. The Senate, in its wisdom, deleted that entire section. Whether that was right or wrong is beside the point here. We have a comparable situation in subchapter S corporations, where Congress, as a national policy, has adopted and maintained in force a law giving certain partnership arrangements a corporate quality and cloak for certain purposes.

It seems to me, if the Senate has given the professional corporations total deletion, it would be within the Senate's discretion and would be consistent with its decision yesterday not to delete the subchapter S corporations, but simply to postpone the effectiveness of that section until after December 31 of next year, to give the Finance Committee a chance to receive the report and recommendations of the Treasury Department, and to legislate on the entire subject.

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

Mr. HRUSKA. Surely.

Mr. LONG. This is a compromise previously discussed, and on which I tried to get agreement on yesterday with regard to professional corporations; and I wish we could have agreed to that compromise, because the failure to achieve the compromise caused us to have that provision knocked completely out of the bill.

The effect of the Senator's amendment

would be that with regard to subchapter S corporations, if the House of Representatives agrees to it, 1 year from now the bill would become law anyway, and we could have a look at it, and have the Treasury make recommendations prior to the time it would go into effect.

Mr. GORE. Mr. President, the distinguished Senator from Nebraska advances the unusual logic that because we extended an undeserved benefit yesterday, we should also do so today.

I ask for a rollcall.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PASTORE) and the Senator from Oklahoma (Mr. HARRIS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), and the Senator from Illinois (Mr. SMITH) would each vote "yea."

The result was announced—yeas 52, nays 32, as follows:

[No. 214 Leg.]

YEAS—52

Allen	Eastland	McClellan
Allott	Ellender	McIntyre
Baker	Ervin	Miller
Bellmon	Fannin	Murphy
Bennett	Fong	Packwood
Bible	Griffin	Pearson
Boggs	Gurney	Percy
Brooke	Hansen	Prouty
Burdick	Hatfield	Schweiker
Byrd, Va.	Holland	Sparkman
Cannon	Hollings	Spong
Cook	Hruska	Stennis
Cooper	Inouye	Stevens
Cotton	Javits	Thurmond
Curtis	Jordan, N.C.	Tower
Dodd	Jordan, Idaho	Young, N. Dak.
Dole	Long	
Eagleton	Mansfield	

NAYS—32

Aiken	Gravel	McGee
Bayh	Hart	McGovern
Byrd, W. Va.	Hartke	Metcalf
Case	Hughes	Mondale
Church	Jackson	Montoya
Goodell	Kennedy	Moss
Gore	Magnuson	Muskie
Nelson	Ribicoff	Williams, N.J.
Pell	Saxbe	Williams, Del.
Proxmire	Smith, Maine	Yarborough
Randolph	Talmadge	

NOT VOTING—16

Anderson	Mathias	Smith, Ill.
Cranston	McCarthy	Symington
Dominick	Mundt	Tydings
Fulbright	Pastore	Young, Ohio
Goldwater	Russell	
Harris	Scott	

So Mr. HRUSKA's amendment was agreed to.

Mr. HRUSKA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

Mr. CURTIS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. MILLER. Mr. President, I ask unanimous consent that I may yield to the Senator from New York without losing my right to the floor.

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

The Senator from New York is recognized.

Mr. JAVITS. Mr. President, I shall be very brief. I have amendment No. 309 which calls for certain types of information to be included in the Secretary of the Treasury's annual report.

Mr. President, I ask unanimous consent that the text of amendment No. 309 be printed at this point in the RECORD.

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

The following new section is to be added at the end of the bill:

"SEC.—. INFORMATION TO BE INCLUDED IN SECRETARY'S ANNUAL REPORT.

"(a) REVENUE LOSSES.—The Secretary of the Treasury shall include in his annual report to the Congress estimates of the losses in revenues for the fiscal year for which such report is submitted which result under the provisions of subtitle A of the Internal Revenue Code of 1954 and other laws of the United States from—

"(1) the exclusion of items of income for purposes of the taxes imposed by such subtitle,

"(2) the deductions allowed under such subtitle.

"(3) the deferral of the imposition of the taxes imposed by such subtitle, and

"(4) such other special tax provisions in such subtitle or in other laws of the United States as the Secretary considers appropriate to carry out the purposes of this subsection."

The Secretary shall include in such report only those revenue losses which in his judgment are significant and can be ascertained with reasonable accuracy.

"(b) TAX EXPENDITURES.—The Secretary of the Treasury shall include in his annual report to the Congress estimates of the indirect expenditures made and to be made by the Government through the application and operation of the Federal income tax laws for the fiscal year for which such report is submitted and for the succeeding two fiscal years. Such indirect expenditures shall be related, insofar as possible, to budget outlays as set forth in the Budget of the United States Government for the same fiscal year for which such report is submitted. Such indirect expenditures shall be based on the revenue losses described in subsection (a), but, for purposes of this subsection, such losses may be qualified in such manner as the Secretary considers appropriate to carry out the purposes of this subsection."

Mr. JAVITS. Mr. President, this very information I asked for was included in the 1968 annual report of the Secretary of the Treasury. What it deals with is the amount which the various tax preferences, and so forth, really cost us.

This is a very important question which has arisen time and time again in the debate.

I would like to ask the manager of the bill a question. It is my understanding that the Secretary is now committed to include the same information in all future reports.

If that is the understanding of the manager of the bill as well, there is no need for pursuing amendment No. 309.

Mr. LONG. Mr. President, I believe that to be the case. And I think it is a good idea.

Mr. JAVITS. Mr. President, I thank the Senator very much.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. MILLER. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

The question now recurs on the amendment of the Senator from Iowa.

UNANIMOUS-CONSENT AGREEMENT

Mr. MILLER. Mr. President, I am perfectly agreeable to entering into a time limitation if the manager of the bill would like to do so.

Mr. LONG. Mr. President, I ask unanimous consent that further debate on the pending amendment be limited to 20 minutes, the time to be equally divided between the Senator from Iowa and a Senator in opposition to be designated.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MILLER. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 4 minutes.

Mr. MILLER. Mr. President, the reason for laying the amendment temporarily aside was to enable the representatives of the Treasury staff to do some work on analyzing some further implications in the amendment. I am pleased to tell my colleagues that the Treasury representatives believe that my amendment is a better approach than the one in the bill. Additionally, it will bring in $740 million of revenue as against $700 million under the bill.

The Senator from Massachusetts asked for the impact of this amendment on corporations and individuals. I am advised that the estimate is that this amendment would bring in $400 million more revenue from corporations and $340 million more from individuals—in just about the same proportion as the pending bill would affect corporations and individuals.

Mr. President, I think the proposition before the Senate is very simple. Are we going to be satisfied with the application of the pending bill to those taxpayers who are paying no tax, for example, by taxing them only 5 percent on their tax

preferences, or do we want to do a better job, a more equitable job?

My amendment will tax them to the extent of 10 percent.

On the other hand, it seems that it is inequitable to take those taxpayers who are already paying a large amount of tax in relation to their tax preferences and just add another 5 percent on top of it. I propose to allow them to deduct their taxes against their tax preferences and on the balance apply a 10-percent rate.

As I explained earlier, the higher taxes are in relation to tax preferences, the greater the benefits under my amendment. The lower the taxes in relation to the tax preferences, the harsher my amendment is.

I suggest to my colleagues that what we are trying to do is to get at the real abuses. The most glaring example is that of a large corporation that pays no taxes because of its tax preferences. Under my amendment, they would be taxed 10 percent. Under the pending bill, they would be taxed only 5 percent, and I suggest that that is not adequate.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CHURCH in the chair). Who yields time?

Mr. KENNEDY. I yield myself 4 minutes.

Mr. President, the difference between the revenues which would be achieved by the amendment of the Senator from Iowa and the committee amendment are virtually the same.

It has been estimated that the committee's 5-percent minimum tax would raise $700 million and that the amendment of the Senator from Iowa would raise $740 million. The figures are virtually the same, within about 5 percent. The real question is, How are we going to approach the question of tax-free income?

Let us take, for example, an individual with $100,000 in taxes and another $100,000 in tax-free income. Under the Miller amendment, he would subtract his $100,000 in taxes from the $100,000 in tax preference income, and he would have a zero base for the minimum tax.

When we apply the Miller amendment's tax rate of 10 percent to that zero base, we still get zero. So no minimum tax would be paid at all for this individual under the Miller amendment. Under the committee bill, however, he would pay a minimum tax of $5,000. Under the present Finance Committee bill, if he has $100,000 of taxable and has $100,000 in preferences, he will know that he must pay a minimum tax.

In fact, before the Miller amendment becomes more effective than the committee bill in taxing what is now tax-free income, the individual must have twice as much tax preference income as the tax he owes to the Federal Government. Only at this level and above does the Miller amendment place a more effective minimum tax on an individual than the present Finance Committee approach.

In other words, the committee recognizes what I think is a very sound principle, and that is the following: Regardless of a person's taxable income, he will always pay 5 percent on his tax loopholes. Of course, I would have liked to see a progressive rate used in calculating the minimum tax. But that proposal was defeated in the Senate last Saturday afternoon. Given this history, I think it would be better to provide an across-the-board 5-percent rate, as the committee provision does. If we adopt the Miller amendment, we will be granting an open invitation to high-salaried corporate executives to pyramid their tax preferences right up to their high tax level. The committee bill is open to no such abuse.

Mr. President, time and time again we have seen instances in which the Finance Committee or the Senate has calculated a meritorious formula, only to have the formula recalculated by those who are in the higher income brackets, in order to take advantage of tax loopholes.

I believe that the minimum tax devised by the Finance Committee, which provides an across-the-board 5-percent tax, is really a more sound, fair, and equitable way to reach the problem of tax shelters than the amendment of the Senator from Iowa.

Mr. MILLER. Mr. President, in response to the Senator from Massachusetts, I say that I think he has fairly put the case. It is true that, unless the tax preferences are much greater than the taxes, they are not going to be hit with higher taxes under my approach. But when I hit them, I hit them twice as hard as the committee bill does, and I suggest that that is the area we should hit harder.

This is another reason why I think the suggestion of the Senator from Massachusetts may not be as well taken as it sounds. I know it is sincere. The Finance Committee already has attacked frontally some of these preferences. For example, the preference of depletion. We have attacked that frontally. Also, the preference of accelerated depreciation. We have attacked that frontally. We have tightened up on it. We have provided for tighter recapture rules to cut down on the opportunities for capital gains. We have tightened up on capital gains by increasing the rates. We have tightened up on amortization, and I suggest that already we have achieved, by a frontal attack in the main bill, the very objectives that the Senator from Massachusetts is suggesting should be achieved.

So, I think that if we have the blend of what we have already done frontally in the committee bill with respect to tax preferences, and then we add the minimum tax of 10 percent, which I suggest, we will have a reasonably balanced package.

I want to make it clear that I do not claim that this is a perfect amendment, and I do not think anybody claims that the pending bill is perfect as to the minimum tax. What I want to see happen is for this proposal to go to conference, where, if perfections can be made, they will be made.

I have three objectives in mind by this amendment: No. 1, to do more equity; and I suggest that taxing at the rate of 5 percent of their tax preferences people who are paying no tax is not doing equity; 10 percent certainly is better. No. 2, I want to see the revenue protected, and this protects the revenue, indeed it adds $40 million. No. 3, I would like to see an alternative type approach brought to the conference, so that the conferees will have a broader opportunity to do a better job.

Mr. KENNEDY. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. KENNEDY. Mr. President, in order for the Miller amendment to improve on the committee bill, an individual's tax preference income must be double the taxes he would pay. Only after his tax shelters reach twice his taxes would the Miller amendment provide additional resources to the Treasury. Only at this point does the Miller amendment offer any advantage whatever over the committee. Meanwhile, it places no minimum tax at all on those who are high-bracket taxpayers and who are enjoying large amounts of tax-free incomes.

Mr. President, ideally I would prefer to have Senator MILLER accept a modification of his amendment, so that an individual would have to pay whichever minimum tax is higher—the Miller version or the committee version. But the hour is late, and I do not wish to subject the matter to a vote. In the circumstances, if we must choose one or the other, I believe that the committee version of the minimum tax is the best approach, and I hope the Miller amendment is rejected.

Mr. MILLER. Mr. President, what is the remaining time on both sides?

The PRESIDING OFFICER. The Senator from Iowa has 4 minutes remaining.

Mr. MILLER. And how much time is remaining to the other side, Mr. President?

The PRESIDING OFFICER. The other side has 5 minutes remaining.

Mr. MILLER. Mr. President, if the Senator from Massachusetts is ready to yield back his time, I am ready to yield back my time.

Mr. BAYH. Mr. President, will the Senator from Iowa yield for a brief question?

Mr. MILLER. Yes, indeed.

Mr. BAYH. Would it be agreeable to the Senator to have a combination of his amendment and the committee amendment and then to say that the high-income taxpayer would pay whichever is greater. The result of this compromise, as the Senator knows, would be to include in the bill the best of the committee version and the best of the Senator's ingenious formula. The revenue produced would be greater than for either formula individually.

Mr. MILLER. I have discussed this with the Senator from Massachusetts. I want to be perfectly fair about it. There is some merit to the Senator's suggestion. However, what bothers me is that we have already had frontal attacks on these tax preferences and we should have an analysis by the Treasury Department as to what this would do.

I understand from the manager of the bill that this can be considered in conference. It would give them a chance to work it out. I do not know how this would apply in view of the frontal attack we have already made.

Mr. LONG. Mr. President, I do not know of anybody who would be adversely affected by the amendment, but who-

ever is adversely affected should be adversely affected because that person must be making a lot of money and have a lot of tax preferences but must be paying very little in taxes. The Senator's amendment would keep us from further increasing taxes on people who are already paying the lowest amount in taxes; and it would raise more money than we have in the committee bill. In this bill we are hitting capital gains four different ways. The House hit capital gains six different ways. The oil industry is being hit nine different ways. The real estate industry is being hit no telling how many ways. I have lost count. With all the different ways we are hitting those interests, it is enough to hit them one more way rather than two.

The Senator's amendment proceeds on the principle that if one is already paying a lot of taxes, the minimum tax will not be an additional burden, but if he is not paying much in the way of taxes he will pay twice as much minimum tax. I think it is a good amendment and I would be willing to vote for it. However, if it is going to be a proposition of "heads you win and tails I lose," I would vote against it.

Mr. MILLER. Mr. President, I agree with the Senator. We have frontally attacked these preferences. I would like to see this bill do more equity than it is doing now. I do not think anybody in the Senate could be proud of going before the American people and saying, "The best we could do with people not paying taxes is to nip them 5 percent."

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

Mr. MILLER. I think we could hold our heads higher if we set it at 10 percent.

Mr. KENNEDY. We had a chance to do that last Saturday, and I wish the Senator had been willing to provide progressive rates up to 15 percent for the minimum tax. I am glad the Senator is so concerned about the 5-percent figure. I wish the Senator had been as forceful in his support of the progressive tax.

Mr. MILLER. The Senator was aware of what was going on. What the Senator from Massachusetts would have done would have been to heap 15 percent on top of the tax being paid by people who were paying a lot of taxes already.

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

SEVERAL SENATORS. Vote! Vote! Vote!

The PRESIDING OFFICER. Who yields time?

Mr. HARTKE. Mr. President, will the Senator from Massachusetts yield to me for a question?

Mr. KENNEDY. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. KENNEDY. Mr. President, I yield for a question.

Mr. HARTKE. Mr. President, I wish to ask the distinguished Senator from Massachusetts whether or not he would be willing to accept an amendment of the principle of the Senator from Iowa by reducing the amount of taxes by 50 percent. This would increase the revenue to $990 million. It would provide the same basic principle of a 10-percent tax, but reduce the amount of offset, instead of by the 100 percent suggested by the Senator from Iowa, by 50 percent.

Mr. KENNEDY. That question should be addressed to the Senator from Iowa. That kind of adjustment would make the Senator's amendment a great deal more desirable and more fair. However, once again we are getting into a field where the Treasury Department does not have the figures and it is difficult to predict. I think that the question should be addressed to the Senator from Iowa.

If the Senator from Iowa desires, I would be glad to yield him a minute to respond to the question.

The PRESIDING OFFICER. Does the Senator from Iowa desire to respond in the minute which has been offered to him?

Mr. MILLER. Mr. President, I thank the distinguished Senator from Massachusetts.

With all deference to the suggestion of the distinguished Senator from Indiana, I do think that the idea that the Senator from Massachusetts had of an alternate—either taking the 5 percent or my 10 percent, whichever is higher, has a lot more logic behind it than to just take a fraction of the tax, whether it is one-fourth or one-half. There is merit in the suggestion, but let us go out of here with a measure that can go to conference, something that is open to what the Senator from Indiana has suggested and what the Senator from Massachusetts has suggested; but at least we will have said that anyone who pays no tax is not going to get off the hook for 5 percent; he will have to pay 10 percent at least. With that, I think we will have taken a big step in the right direction.

Mr. KENNEDY. Mr. President, I yield back whatever time I have remaining.

Mr. HARTKE. Mr. President, I send to the desk an amendment and ask that it be stated. I understand the ruling is that no debate is allowed but we can ask for the yeas and nays.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. HARTKE) proposes an amendment to the amendment proposed by Mr. MILLER, as follows:

In the proposed subsection (G)(2) strike out "the taxes imposed by this chapter." and insert in lieu thereof "one-half of the amount of the taxes imposed by this chapter."

After the word "reduction" insert "one-half".

Mr. BAYH. Mr. President, a point of order. Perhaps a parliamentary inquiry would be best.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Mr. President, it seems to me that since we have had two different rulings by the Chair, the present Presiding Officer is in a position to decide if we can accept an amendment to the tax bill without one word of debate.

Is it possible for us to have some debate to find out what is in the amendment? I believe that if we had that opportunity, the Senate would agree to the Hartke amendment.

The PRESIDING OFFICER. First, does the Senator from Indiana offer his amendment as an amendment to the amendment offered by the Senator from Iowa?

Mr. HARTKE. That is correct.

The PRESIDING OFFICER. In accordance with the ruling of the Chair, which was sustained by the Senate this afternoon, the Chair must rule that although an amendment offered by the Senator from Indiana (Mr. HARTKE) is in order, no further debate is in order and the Senate will proceed to vote on the amendment offered by the Senator from Indiana.

Mr. HARTKE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana will state it.

Mr. HARTKE. If unanimous consent is granted then debate could be had, is that correct?

The PRESIDING OFFICER. The Chair would advise the Senator from Indiana that if unanimous consent is granted, almost anything can be done.

Mr. HARTKE. Mr. President, I ask unanimous consent.

Mr. EASTLAND. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. HARTKE. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Indiana (Mr. HARTKE).

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk proceeded to call the roll and Mr. AIKEN voted in the negative.

Mr. LONG. Mr. President, I move to table the Hartke amendment.

The PRESIDING OFFICER. The Chair would advise the Senator from Louisiana that the vote is now in progress. The Chair announced the beginning of the rollcall and since a rollcall vote is in progress, the request of the Senator from Louisiana is out of order.

The clerk will continue the call of the roll.

The bill clerk resumed and concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from Oklahoma (Mr. HARRIS) is paired with the Senator from Rhode Island (Mr. PASTORE).

If present and voting, the Senator from Oklahoma would vote "yea" and the Senator from Rhode Island would 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.

The Senator from Vermont (Mr. PROUTY) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania Mr. SCOTT), and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. PROUTY) and the Senator from Illinois (Mr. SMITH) would each vote "nay."

The result was announced—yeas 31, nays 52, as follows:

[No. 215 Leg.]

YEAS—31

Bayh	Hollings	Moss
Burdick	Hughes	Muskie
Cannon	Inouye	Nelson
Church	Jackson	Pell
Dodd	Kennedy	Proxmire
Eagleton	Magnuson	Randolph
Goodell	McGee	Spong
Gore	McGovern	Williams, N.J.
Gravel	McIntyre	Yarborough
Hart	Mondale	
Hartke	Montoya	

NAYS—52

Aiken	Ellender	Murphy
Allen	Ervin	Packwood
Allott	Fannin	Pearson
Baker	Fong	Percy
Bellmon	Griffin	Ribicoff
Bennett	Gurney	Saxbe
Bible	Hansen	Schweiker
Boggs	Hatfield	Smith, Maine
Brooke	Holland	Sparkman
Byrd, Va.	Hruska	Stennis
Byrd, W. Va.	Javits	Stevens
Case	Jordan, N.C.	Talmadge
Cook	Jordan, Idaho	Thurmond
Cooper	Long	Tower
Cotton	Mansfield	Williams, Del.
Curtis	McClellan	Young, N. Dak.
Dole	Metcalf	
Eastland	Miller	

NOT VOTING—17

Anderson	Mathias	Scott
Cranston	McCarthy	Smith, Ill.
Dominick	Mundt	Symington
Fulbright	Pastore	Tydings
Goldwater	Prouty	Young, Ohio
Harris	Russell	

So Mr. HARTKE's amendment was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from Iowa (Mr. MILLER). All time on the amendment has expired. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), The Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. PROUTY) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. PROUTY), and the Senator from Illinois (Mr. SMITH) would each vote "yea."

The result was announced—yeas 72, nays 11, as follows:

[No. 216 Leg.]

YEAS—72

Aiken	Ervin	Miller
Allen	Fannin	Montoya
Allott	Goodell	Murphy
Baker	Gravel	Nelson
Bayh	Griffin	Packwood
Bellmon	Gurney	Pearson
Bennett	Hansen	Pell
Bible	Hartke	Percy
Boggs	Hatfield	Proxmire
Brooke	Holland	Randolph
Burdick	Hollings	Ribicoff
Byrd, Va.	Hruska	Saxbe
Byrd, W. Va.	Hughes	Schweiker
Cannon	Inouye	Smith, Maine
Case	Jackson	Sparkman
Church	Javits	Spong
Cook	Jordan, N.C.	Stevens
Cooper	Jordan, Idaho	Talmadge
Cotton	Long	Thurmond
Curtis	Magnuson	Tower
Dodd	Mansfield	Williams, N.J.
Dole	McClellan	Williams, Del.
Eastland	McGee	Yarborough
Ellender	McIntyre	Young, N. Dak.

NAYS—11

Cranston	Kennedy	Moss
Eagleton	McGovern	Muskie
Fong	Metcalf	Stennis
Gore	Mondale	

NOT VOTING—17

Anderson	Mathias	Scott
Dominick	McCarthy	Smith, Ill.
Fulbright	Mundt	Symington
Goldwater	Pastore	Tydings
Harris	Prouty	Young, Ohio
Hart	Russell	

So Mr. MILLER's amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

AMENDMENT NO. 358

Mr. SPARKMAN. Mr. President, I call up my amendment, No. 358, offered in behalf of myself, the Senator from Tennessee (Mr. BAKER) and my colleague from Alabama (Mr. ALLEN), and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senate will be in order.

Mr. SPARKMAN's amendment (No. 358) is as follows:

SEC. —. (a) Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c) (relating to exempted securities) is amended by adding at the end of paragraph (2) the following: "or any security consisting of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by the United States or any territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or territory, or by any public instrumentality of one or more States or territories, which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, if under section 103(c) of the Internal Revenue Code of 1954 (exclusive of section 103(c)(7) thereof) gross income does not include interest on such bond, note, debenture, or other evidence of indebtedness;".

(b) Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c) (relating to exempted securities) is amended by inserting after "any municipal corporate instrumentality of one or more States;" in paragraph (12) the following: "or any security consisting of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any one of the foregoing governmental units which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, if under section 103 of the Internal Revenue Code of 1954 (exclusive of section 103(c)(7) thereof) gross income does not include interest on such bond, note, debenture, or other evidence of indebtedness;".

(c) The amendments made by this section shall apply with respect to securities consisting of obligations evidenced by any bonds, notes, debentures, or other evidences of indebtedness sold after January 31, 1968.

Mr. SPARKMAN. Mr. President, this is a very simple amendment. I have talked with the manager of the bill and with the senior Republican member of the committee, the Senator from Delaware (Mr. WILLIAMS), and I believe they are willing to accept the amendment.

The situation is simply this: A year or so ago, the Congress passed a bill that exempted from taxation industrial development bonds in amounts not to exceed $1 million.

Mr. CURTIS. Was it not $5 million?

Mr. SPARKMAN. It was first proposed to be $5 million, but the amount of $1 million was finally agreed upon.

Later, the Securities and Exchange Commission, by administrative action, instituted a regulation requiring these development corporations to register with the Securities and Exchange Commission. That never was the intent of the legislation at all; and it is a very expensive, long-drawnout operation. It costs, I would estimate, between $50,000 and $75,000.

That means that the little industrial development programs that we intended to help are simply denied the benefit.

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

Mr. SPARKMAN. I yield.

Mr. LONG. What the Securities and Exchange Commission has done is to increase by about $75,000 per bond issue the cost of issuing less than $1 million worth of bonds to help finance some local type of industrial development.

As I understand it, the amendment would cost the Federal Government nothing.

Mr. SPARKMAN. Nothing.

Mr. LONG. The amendment just takes a burden off the communities and State governments which need not exist; and, if anything, it would tend to save the Government money, rather than cost the Government anything. It is just an un-

necessary burden on a function of government. There is no revenue loss at all, and, if anything, as I say, it would save money.

Mr. SPARKMAN. The Senator is exactly right, and the provision was not in the law itself.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. BAKER. I rise to support the amendment of the distinguished Senator from Alabama.

Mr. President, on May 27 of this year I introduced an amendment to the Internal Revenue Code pertaining to the income tax treatment of interest on industrial development bonds. A section of this bill provided for a requirement of registration of State and local securities with the Securities and Exchange Commission only in such instances as the obligations are defined as industrial development bonds and taxable under the Internal Revenue Code. The amendment offered by this distinguished senior Senator from Alabama (Mr. SPARKMAN), which I am cosponsoring, is identical to the language of the section in my earlier bill.

As Senator SPARKMAN points out, the Senate in 1968 curtailed large industrial development bond issues and firmly fixed a tax-exempt ceiling of $1 million or, under special circumstances, $5 million for any one company in any one county. The intent of the Congress was to permit these smaller issues to continue to be considered on the same basis as ordinary municipal bonds. Unfortunately, however, on January 31, 1968, the Securities and Exchange Commission established a registration requirement which effectively emasculated the decision by the Congress on these small issues by requiring that the small issues be registered in accordance with SEC regulations. This emasculation results from the substantial cost involved in complying with SEC regulations which range from a low of $50,000 to a high of $75,000 in legal, auditing, and printing costs and also means a delay of issuance of 4 to 6 months. It is this cost and delay that effectively prohibits the use of small issues.

The Commission took this action even though the Securities Act of 1933 and the Securities Exchange Act of 1934 specify that obligations of State governments and their local entities are exempt from registration and even though the Congress continued the tax exemption for small issues. The amendment offered today provides that those obligations that are taxable under the Internal Revenue Code be registered with the Securities and Exchange Commission while those obligations that the Congress has specified are not taxable under the Code would not have to be registered.

I urge the adoption of the amendment to fulfill the original intent of Congress and to relieve an unwarranted and costly restriction that the Commission has imposed on State and local governments.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama.

The amendment was agreed to.

AMENDMENT NO. 416

Mr. DOLE. Mr. President, I call up my amendment No. 416, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from Kansas (Mr. DOLE) proposes amendment No. 416, as follows:

At the proper place insert the following new section:

"SEC. —. POLITICAL ACTIVITIES OF LABOR ORGANIZATIONS.

"(a) IN GENERAL.—Section 501(c) (relating to list of exempt organizations) is amended by striking out paragraph (5) and inserting in lieu thereof the following:

"'(5) Labor organizations which do not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office, and agricultural or horticultural organizations.'

"(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act."

Mr. LONG. Mr. President, will the Senator from Kansas agree to a time limitation? How much time does the Senator require?

Mr. DOLE. I think 10 minutes on a side.

Mr. JAVITS. Mr. President, will the Senator from Louisiana yield, before he makes his unanimous-consent request?

Mr. LONG. I yield.

Mr. JAVITS. I hope my colleagues understand that in my judgment—I have read the amendment, and have remained here tonight to try to do something about it—it essentially reargues the case which we debated at considerable length respecting alleged union political activities.

I think personally that notwithstanding the lateness of the hour, none of us individually is keeping the Senate in session; it is the majority's decision. That does not mean that these things have to be pushed off as if they were unimportant. They can be very important.

Therefore, I would most respectfully suggest that there be a time limitation of at least a half hour on a side, so that if Senators want to be heard or say something about it, they will not be suddenly snuffed out.

Mr. LONG. Mr. President, I ask unanimous consent that there be a time limitation of one-half hour on each side.

Mr. MANSFIELD. Mr. President, reserving the right to object—and I shall not object—I think the issue is very plain. There has been an amendment somewhat similar to this, and I hope, in the interests of the Senate as a whole, we will not use up all that time.

The PRESIDING OFFICER. Is there objection?

Mr. FANNIN. Mr. President, reserving the right to object, this amendment does not pertain to voter registration. Most of the debate when I offered a similar amendment a few days ago was on voter registration. So this is a different amendment, and I trust that it will be given consideration as such.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana? The Chair hears none, and it is so ordered.

Mr. LONG. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I hope we will not use all the time on this amendment. Although I think the amendment contains merit and will muster a substantial vote, I do not think it will carry, and it is almost the same thing that the Senate spent about 4 hours debating the other day.

In the Committee on Finance, when we considered the Fannin amendment on the same point—it might not have been as well drafted, but it was basically the same amendment—the chairman said to the members of the committee, "I think everybody knows how he wants to vote. We are either in favor of it or against it. All in favor say aye, all opposed say nay." We disposed of it in 60 seconds, although it took 4 hours on the Senate floor yesterday.

So I hope the Senators will keep in mind that yesterday we have had a vote on this type of amendment, to see what the general philosophy of the Senate was. We determined that, and I hope we will not debate this issue further. We will just arrive at the same conclusion on it. I have no doubt the vote will go basically the same way.

The PRESIDING OFFICER. The Senate is now proceeding under a unanimous-consent agreement giving 30 minutes for debate to each side. The Chair recognizes the Senator from Kansas. How much time does he yield himself?

Mr. DOLE. Mr. President, I yield myself 5 minutes.

I certainly concur in the general statement made by the Senator from Louisiana. I think we all recognize the basic thrust of the amendment, but I would point out that when we discussed at some length yesterday the Fannin amendment, there was much discussion about the fact that it contained a provision prohibiting voter registration.

And this amendment does not do that. And this is the basic difference. Let me point out that the Fannin amendment applied to all section 501(c) organizations. The Dole amendment, amendment No. 416, treats unions the same as section 501(c)(3) or organizations, such as the United Givers Fund, Easter Seals, and so forth.

It would place labor organizations in the same position as corporations for profit in that all such activities would be taken out of aftertax dollars. Our amendment would assure that political activities of unions would use aftertax dollars. To recap what happened yesterday in the debate, the Fannin amendment denied the use of tax-exempt money for, first of all, support of candidates and, second, support of parties, and the most controversial section was with reference to voter registration drives.

My amendment uses the same language contained in section 501(c)(3) but only insofar as it would deny tax-exempt status for labor organizations supporting candidates in political campaigns.

My amendment would not prohibit unions from carrying on propaganda. It would not prohibit lobbying or voter registration drives, but it would deny tax-exempt status to unions which partici-

pated in or conducted any political campaign on behalf of any candidate.

Mr. President, I recognize the lateness of the hour. And I certainly recognize that the issue is very simple. It is whether labor unions should be using tax-exempt dollars to engage in political campaigns to influence the election of any candidate for public office.

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

Mr. DOLE. I yield.

Mr. TOWER. Mr. President, this would not make it impossible for organizations like the League of Women Voters or the Jaycees, or any of these other organizations to engage in voter registration drives. They would be exempt from the provisions of the amendment?

Mr. DOLE. That is the intent of the amendment, yes. No section 501(c) organization would be prohibited from conducting voter registration drives by my amendment.

Mr. HATFIELD. Mr. President, would the amendment put the labor organizations in the same category as the Grange, the Farmers' Bureau, and the Farmers' Union?

Mr. DOLE. It would not put them in the same position. However, I do not think they engage in political activity. I think they engage in lobbying efforts, but I do not know of any of them that have engaged in political activity.

Mr. HATFIELD. The Senator should come to Oregon.

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

Mr. DOLE. I yield.

Mr. GRIFFIN. Mr. President, at first blush I thought the amendment was one that I could support. I supported the Fannin amendment. However, as I read and think about the amendment, I am concerned about a labor organization which uses not dollars—which I would object to for any political purpose—but COPE funds. Let us assume that they are collected voluntarily. What would be the impact or effect of the Senator's amendment?

Mr. DOLE. Mr. President, I do not think it would have any effect at all. We are talking about unions which use tax-exempt dollars.

Mr. GRIFFIN. Mr. President, I appreciate the Senator's answer. I am not quite sure that it is clear that that is the case as I read the amendment.

It seemed to me that a labor organization which under any circumstances intervened in a political campaign would be denied its tax-exempt status, whether it was using union dues or not. If that is what we want to do, I think we ought to be clear on it.

Mr. DOLE. Mr. President, the present section 501(c)(3) deals with corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

This says in part that they are tax exempt and the funds are tax exempt unless they "participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

In an effort to avoid controversy about voter registration or even about party, I incorporate in my amendment the same language just cited from section 501(c)(3).

It is my purpose to make it very clear that the conducting of voter registration drives does not infringe on the right of the League of Women Voters or the AFL–CIO, or COPE. It is intended to keep labor unions from engaging in any election campaigns for public office with tax-exempt funds.

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

Mr. DOLE. Mr. President, I reserve the remainder of my time.

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

Mr. MONDALE. Mr. President, this is the fourth of a series of amendments which have been presented designed to cripple the opportunity of organized labor to present their points of view in an effective way.

In a real sense, this goes further than any of the others, because the past three would not have prohibited the use of voluntarily contributed money, usually known as COPE funds, as well as union treasury funds.

Treasury funds cannot be used anyhow. It is prohibited by Federal law.

This would deny tax exemption to any union which used money that was contributed voluntarily, with the specific consent of an individual union member, for political purposes.

I think this goes further than any other amendment that has been presented to cripple and paralyze labor unions.

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

Mr. MONDALE. I yield.

Mr. AIKEN. Mr. President, does the Senator think that would include REA cooperatives, as well?

Mr. MONDALE. Mr. President, the amendment is unique in another respect. I would say to the Senator from Vermont that some of the three preceding amendments at least presented the appearance of applying to tax-exempt associations generally. This does not. The facade is dropped, and they apply a belly punch to the labor organization.

It does not apply to the chamber of commerce or to the American Medical Association, or to the National Association of Manufacturers, or to the National Right To Work Committee or to any of the other tax-exempt organizations, but only to organized labor.

It reaches beyond treasury funds of the union to prohibit the use of voluntary funds as well. This goes further than any of the others.

It does not affect corporate officers' giving whatsoever, even though every report shows that more outside funds from that source find their way into campaigns than money from any other source. However, not a word is included in the amendment about that.

These amendments are not offered on behalf of officers who are required to be elected by democratic processes and work in plants of the union.

These amendments are designed to intimidate and to destroy the capacity of an association of people, joining together in a union, to have any influence in the political sector whatever.

It assumes that labor leaders, the stewards at regular annual meeting, and all the rest, in no way accurately reflect the will of the people working in factories in this country.

These amendments come from sources such as the National Right To Work Committee and the chamber of commerce and the antilabor groups which want to shackle the vibrant source of labor strength in this country.

Mr. President, I hope the amendment will be rejected.

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

Mr. MONDALE. I yield.

Mr. YARBOROUGH. Mr. President, I ask the Senator from Minnesota, looking at lines 6 through 9, where it reads, "Labor organizations which do not participate in, or intervene in—including the publishing or distributing of statements—any political campaign on behalf of any candidate" whether that wording includes the publishing of statements, including the publishing of the organization's own paper that goes to its members?

Mr. MONDALE. I would also take this to mean that if a labor union, in its regular newspaper, wrote an editorial in support of a candidate, it would lose its tax exemption and would have to pay corporate tax rates on all the dues and assets of that organization.

Mr. YARBOROUGH. That is only if they limited this to the newspaper.

Mr. MONDALE. The Senator is correct.

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

Mr. JAVITS. Mr. President, will the Senator yield me 5 minutes?

Mr. LONG. I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I requested more time than we obviously will need to deal with this amendment. The Senator from Kansas (Mr. DOLE), commendably, has made his statement brief, and so has the Senator from Minnesota (Mr. MONDALE), and I will be brief, also.

The only point that has not been made is that every illegitimate union activity which Senator DOLE says he believes his amendment reaches is dealt with by the Corrupt Practices Act. Beyond that, if he goes beyond that, and I think his amendment does, you are dealing with first amendment rights. Not even the right of a trade union to tell its own members what it thinks about anything or to write an editorial in its newspaper. Whether it is for or against any of us, we should be vigilant to protect those rights. Again, the penalty is much greater than any crime that is likely to be committed, because they lose their whole tax-exempt status. I cannot conceive of that.

In addition, this amendment is very vague, and I think courts would hold it is vague and indefinite. This is a penalty provision, let us remember. What is meant by the words "participate in" or,

what is even worse to my mind, "intervening"?

It seems to me that if you publish an article in which you say this union has or has not endorsed so and so, that is intervening in an election. So I do not think the amendment is saved for the fact that it is confined to candidates. The Corrupt Practices Act is confined to candidates in Federal elections.

What the appendage "an agricultural or horticultural organization" means, I do not know. It is apparently a tail which may be wagging this dog and may be insignificant; but it is there, and we have to take it for what it is, and it leaves us in considerable doubt and will worry any court. What does it mean in terms of "an agricultural or horticultural organization" in respect of participation in or intervening in any political campaign?

On those grounds, and because it seems to me the question was thoroughly debated and decidedly decided by the Senate, I hope very much that the amendment will be rejected.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote! Vote!

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOLE. I yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. Mr. President, this matter was debated yesterday, but most of the time was devoted to a discussion of voter registration. It seems peculiar to me that these objections come up now.

One of the principal objectives of these amendments, and the objective in my amendment, are to bring about a better balance between labor and management. A drastic situation is facing this country. We are gradually seeing jobs moved out of our country, exported to other nations. And why? Because we do have this imbalance—the great power that labor unions possess.

We have talked about the Corrupt Practices Act. I covered that thoroughly in my statement earlier, and explained that the Corrupt Practices Act does not cover the abuses mentioned here.

If we look at it from the standpoint of what is best for this country and what will best bring about the conditions we all desire we will try to put both unions and managment on an equal footing. We all must realize that the unions do have special statutory privileges today, and this has been brought out by the distinguished Senator from Kansas. He is just attempting to bring about a correction to this problem.

Let me stress again what is happening. Companies are moving into neighboring countries. We have seen them move across the waters, placing plants in other nations, rather than in this country. Why? Not only because of the wage rates. Surely, that is a very important matter—but also because of the factor of productivity and the ability of the mangement of these companies to work with their employees. This is a most important matter.

I feel that if we correct these imbalances, and eliminate some of the undue power of the union officials and their vast treasury, we will be doing a great benefit to all the people of our Nation. Consider that over a billion dollars in dues is collected each year by unions. Without political activities that could possibly be cut in half.

I know that all that amount is not contributed to political candidates. But, knowing how unions operate, I submit that a vast amount of money is lost to the union worker. In most instances the union member is not voluntarily contributing his money. A union attorney appearing before the Supreme Court gave examples of what happened when he was questioned. He admitted that they could not voluntarily raise the amount of money they needed to carry on their work. Consequently, they did use dues money. That is a matter of record.

I know that the reports have been given to the House of Representatives. These disclosures indicate what has happened. Vast sums of money are utilized that are not given voluntarily.

I feel that by adopting this amendment the Senate will be doing a great service for the future of this Nation.

The PRESIDING OFFICER. Are there further requests for time?

Do Senators yield back their time?

Mr. LONG. I yield back the remainder of my time.

Mr. DOLE. 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 Kansas. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS (when his name was called). Mr. President, on this vote I have a pair with the Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. HOLLAND (after having voted in the affirmative). Mr. President, on this issue I announce a pair with the senior Senator from Missouri (Mr. SYMINGTON). If he were present and voting, he would vote "nay." I have already voted "yea." I withdraw my vote.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS) and the Senator from Rhode Island (Mr. PASTORE) 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.

The Senator from Vermont (Mr. PROUTY) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK), the Senator from Maryland (Mr. MATHIAS), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK) and the Senator from Vermont (Mr. PROUTY) would each vote "nay."

The Senator from Alaska (Mr. STEVENS) has previously announced his pair with the Senator from Arizona (Mr. GOLDWATER).

The result was announced—yeas 10, nays 71, as follows:

[No. 217 Leg.]

YEAS—10

Bennett	Gurney	Tower
Curtis	Hansen	Williams, Del.
Dole	Hruska	
Fannin	Thurmond	

NAYS—71

Aiken	Fong	Mondale
Allen	Goodell	Montoya
Allott	Gore	Moss
Baker	Gravel	Murphy
Bayh	Griffin	Muskie
Bellmon	Hart	Nelson
Bible	Hartke	Packwood
Boggs	Hatfield	Pearson
Brooke	Hollings	Pell
Burdick	Hughes	Percy
Byrd, Va.	Inouye	Proxmire
Byrd, W. Va.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Jordan, N.C.	Saxbe
Church	Jordan, Idaho	Schweiker
Cook	Long	Smith, Maine
Cooper	Magnuson	Sparkman
Cotton	Mansfield	Spong
Cranston	McClellan	Stennis
Dodd	McGee	Talmadge
Eagleton	McGovern	Williams, N.J.
Eastland	McIntyre	Yarborough
Ellender	Metcalf	Young, N. Dak.
Ervin	Miller	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—2

Stevens, against.
Holland, for.

NOT VOTING—17

Anderson	Mathias	Scott
Dominick	McCarthy	Smith, Ill.
Fulbright	Mundt	Symington
Goldwater	Pastore	Tydings
Harris	Prouty	Young, Ohio
Kennedy	Russell	

So Mr. DOLE's amendment was rejected.

Mr. CURTIS. 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 read the amendment as follows:

At the end of the bill insert the following new section:

"SEC. ——. POSTPONEMENT OF EFFECTIVE DATES OF CERTAIN PROVISIONS.

"Notwithstanding any other provision of this Act, the following amendments made by this Act shall be applicable only to taxable years beginning on and after the first day of January which falls within the first fiscal year following the date of the enactment of this Act for which it is estimated that there will be a surplus in the administrative budget of the United States Government:

"(1) The amendments made to sections 1 and 3 of the Internal Revenue Code of 1954 (relating to tax tables applicable to individuals).

"(2) The amendments raising the deduction for personal exemptions of individuals.

"(3) The amendment granting a credit against tax for certain expenses of higher education.

"(4) The amendment granting an increase in the amount deductible for medical expenses.

"(5) The amendment providing an exception to the repeal of the investments credit in the case of certain depressed areas.

"(6) The amendment granting an annual exception to the repeal of the investment credit for the first $20,000 of investments in section 38 property.

"The determination as to whether there is to be a surplus in the administration budget for a fiscal year ending after the date of the enactment of this Act shall be made by the Secretary of the Treasury and published in the Federal Register."

Mr. GRIFFIN. Mr. President, will the Senator from Nebraska yield to me briefly?

Mr. CURTIS. I yield.

Mr. GRIFFIN. Because a number of Senators have inquired of me, I should like to ask the distinguished majority leader what he thinks the prospects are for finishing the bill.

Mr. MANSFIELD. First, before responding to the question of the distinguished acting Republican leader, the amendment just read seems like a recommital before third reading. However, it is my understanding that this will be the last amendment——

Mr. CURTIS. This will be the last one for me.

Mr. MANSFIELD. Well, the Senator from Nebraska thinks it will not take very long.

Mr. CURTIS. No.

Mr. MANSFIELD. The Senator from Nebraska says he can finish up his amendment in 5 minutes. The Senator from Alabama says he can do better and finish up in less than a minute?

Mr. SPARKMAN. Two or 3 minutes. If I do not receive too much "fire" from other Senators.

Mr. MANSFIELD. Mr. President, barring unforeseen circumstances, it is our hope that we can reach third reading, and that will be the end of business for tonight.

It is my understanding that there may well be a motion to recommit the bill to come at some time on tomorrow, possibly in the late morning or early afternoon.

It is the intention of the joint leadership, if we do get to third reading tonight—and what a relief that will be—that on tomorrow we will take up, at 9 o'clock a.m., the conference reports on the legislative appropriation bill, and following that the District of Columbia appropriation bill; and then, at that time, hopefully, we can return to consideration of the tax bill on a post-third-reading basis.

Following disposition of the tax bill, it is the intention of the joint leadership to consider taking up various other measures, such as the foreign aid authorization bill, maybe the cigarette labeling bill, and other measures which have been enunciated before this time.

Thus, we will have a pretty busy week, but it will be a lot easier if we ever get third reading on this particular measure.

Mr. CURTIS. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, will the Senator from Nebraska yield to me briefly?

Mr. CURTIS. For a question, I yield.

Mr. SPARKMAN. I wish to ask a question of the distinguished majority leader. There are two very brief conference reports, one on housing and one on taxation of national banks by the States which were unanimously agreed to, and I think we can dispose of them right off, tomorrow.

Mr. MANSFIELD. Tomorrow morning, or tonight?

Mr. SPARKMAN. No, not tonight. The Senator from Utah (Mr. BENNETT) does not want it tonight.

Mr. TOWER. Mr. President, if the Senator will yield, speaking to the housing conference report, the minority is perfectly willing to take it up tomorrow. I cannot speak for the conference report on taxation.

Mr. SPARKMAN. The Senator from Utah (Mr. BENNETT) wanted that one held for tomorrow.

Mr. MANSFIELD. Very well.

Mr. SPARKMAN. He does not want to take up either one tonight.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska?

Mr. CURTIS. I thank the Chair. I can be very brief. The only argument I have to make is to tell Senators what the amendment contains.

It is my hope that there will not be a motion to table it. I think there is a basic policy involved and we are entitled to have a vote.

Mr. President, the amendment would provide that the major reduction of taxes in the bill shall not take effect until the budget is balanced and there is a surplus in the Treasury.

It calls upon the Secretary of the Treasury, at the first of the year, to estimate whether there will be a surplus at the end of the fiscal year and, if so, the reductions will go into effect.

Now, here are the reductions.

The reductions in rates, I realize, were knocked out by the Gore amendment, but they may be in conference. The Gore amendment raises the exemption, which is a laudable thing, and most of us favor it. But I am opposed to reducing taxes if we have to borrow the money and go into debt to do it.

The next reduction is the amendment granting credit for certain expenses of higher education. I think that is a good thing, but I am opposed to doing it with borrowed money. I am opposed to setting a tax reduction if we have to increase the national debt to do it.

The next one is the amendment granting an increase in deductible medical expenses. That affects only those in the higher income brackets. Eighty percent of people over 65 years of age do not file an income tax.

The next reduction is the amendment providing an exception to the repeal of the investment tax credit in certain depressed areas, a very desirable thing. But, to me, it is not desirable enough to go into debt to do it, to borrow the money to make such a reduction.

The last one is an amendment granting an annual exception to the repeal of the investment credit for the first $20,000 of investment.

Mr. President, this involves $5 billion in tax reductions. I do not strike any of it from the bill. All it does is provide that the effective date of the reductions shall be on January 1, when the Secretary of the Treasury can estimate that the budget will be balanced and there will be a surplus at the end of the fiscal year.

Mr. GORE. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. GORE. I hope the Senator will not press his amendment. It is now 9:30 o'clock and I have been to the desk to try to read the Senator's amendment but I cannot even find a copy. It has not been printed. The Senator proposes to open up the whole bill and yet we cannot even find a printed copy. Since it is now 9:30 o'clock in the evening, we should not pass it in just a few moments. I therefore suggest to the able chairman of the committee that if we are going to follow that procedure, let us adjourn until Monday next and start all over again.

Mr. CURTIS. Mr. President, this is not a technical amendment changing the bill. What the distinguished Senator says has no relevance at all.

Mr. GORE. How do I know it does or does not, because I cannot see a copy of the amendment.

Mr. CURTIS. It is merely an issue: Shall we borrow money to reduce taxes? Shall we vote $5 billion in tax reductions when, without it we will have a deficit next July?

Mr. PERCY. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I yield.

Mr. PERCY. Mr. President, I commend the Senator from Nebraska for introducing this amendment which will delay the effects of any amendment adopted by the Senate that causes a loss of revenue to the Federal Treasury until such time as the Federal budget is in surplus. I intend to support this amendment. If it is adopted, it will be the only basis upon which I can vote for this "so-called" tax reform bill.

Mr. President, I intend to vote "no" if the so-called Tax Reform Act of 1969 is presented to the Senate for final passage tomorrow in its present form as amended.

I know of few more urgent domestic needs before us than the reform of our tax code, the necessity to strike from our tax laws the many inequities and loopholes that now exist and to restore tax justice to our society.

In advancing that goal, I have sponsored and supported numerous reform proposals incorporated within the pending tax measure—proposals that would end tax avoidance by the wealthy, that would provide for low-income allowances for the poor and that would curb self-dealing by foundations while helping legitimate charitable institutions to pursue their urgent tasks.

Yet I can no longer regard the measure before us basically as a tax-reform bill. For it has been twisted on the Senate floor into an unwarranted, unjustified, dangerous and ill-timed tax cut that would only play a cruel trick on the very people it is supposed to relieve. For this reason, I cannot and will not vote for this bill.

As passed by the House, the Tax Reform Act of 1969 would lead to a long-term net revenue loss to the Treasury of $3.3 billion a year. The tax bill approved by the Senate Finance Committee, while differing from the House measure in several respects, would have a similar $3.3 billion impact on Treasury revenues.

The bill as altered by the Senate would more than triple this loss. Action on the Senate floor has now resulted in an additional revenue loss of more than $9,000,000,000 for 1970 over the Senate Finance Committee bill and a revenue loss of more than $11,250,000,000 in 1971. The immediate effect of these actions on our economy could surely be to induce an inflationary spiral without precedent in modern times. While all Americans would be injured by such an unchecked inflation, the blow would fall most heavily upon people with low wages, fixed incomes and limited means—the poor, the elderly, the retired pensioner.

In principle, some of the revisions that have been made to the bill—increased social security payments, higher personal exemptions—are legitimate and I would support them within a sound fiscal climate. But as inserted in this bill, the cumulative effect of these and other revenue losses strips the measure of its basic fiscal soundness and, most importantly, imperils its many needed tax reforms.

They would, of course, all go down the drain with a Presidential veto. And the President, having rightly warned of the dangers of such an inflationary approach, has clearly indicated that he cannot sign the Senate tax bill in its present form.

Not the least of my intentions in voting against this bill—should it nevertheless pass—is to add my weight to those who would have the Senate's conferees join those of the House in drafting a more responsible tax measure that would create greater tax justice for our people while preserving the integrity of the economy under which we live.

That is the kind of measure I had hoped the Senate would write.

That is the kind of measure I can support.

Mr. CURTIS. Mr. President, a vote on this amendment will in no sense prejudice the right of any Senator to make a motion to recommit tomorrow. I merely ask a vote on the policy issue: Shall we borrow money to reduce taxes, or shall we postpone the effective date until there is a surplus in the Treasury?

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nebraska.

Mr. LONG. Mr. President, what the Senator has done here is to pick out the expensive items that were added to the bill on the Senate floor. Then he proposes that all those items should be postponed and not take effect until the Director of the Budget, or someone in the administration, the President, estimates that he is going to have a balanced administrative budget. That would not be next year, or anytime soon. Mind you, Mr. President, that is not a balance in the unified budget, which would be easier to achieve. The Senator is talking about a balance in the administrative budget.

The Senator is proposing that no part of the Gore amendment would go into effect next year—no part whatever. That means, having debated that matter for almost a week, he wants to reopen it tonight, at 9:32 p.m., when we are hoping to get to third reading.

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

Mr. LONG. in just a moment. I know what is going to happen if we permit this amendment to go to a vote on its merits. Just for fear that it might carry, the Senator from Tennessee will move to strike the part that affects the Gore amendment. If I were the Senator from Tennessee, that is what I would do.

Then the Senator from Colorado or the Senator from Indiana will get up and move to strike out the part that affects his amendment. Then the Senator from Alaska will offer an amendment to strike out the part that affects the Stevens amendment.

I guess after a while the Senator from Louisiana will get up and move to strike the part that affects the Long amendment, the social security amendment.

We will be here all night long.

As the Senator from Tennessee has suggested, we might as well quit now, go home, get a good rest over the week-end, and then start on the bill all over again Monday—after 3 weeks of work.

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

Mr. LONG. I yield for a question.

Mr. CURTIS. Social security is not involved. This amendment has been drawn with compassion. The low-income taxpayer is not touched at all. It is not complicated at all. It is merely a question of the effective date.

Mr. LONG. The Senator from Nebraska in effect is making a motion to recommit before the appropriate time for it to be made. That should be made after third reading. I reserve the right to vote for a motion to recommit, if a Senator wants to make one, after we have had a chance to look at it and see what the motion is.

Mr. CURTIS. That is not a correct statement. All I am doing is offering an amendment relating to the effective date. It is not a motion to recommit. It does not send the bill to committee. I hope the distinguished Senator——

The PRESIDING OFFICER. The Chair must insist on proceeding in the regular order. The Senator from Louisiana has the floor.

Mr. LONG. Put it any way one wants to, this proposal opens up the major provisions in the bill. Furthermore, this amendment is subject to amendment, so every Senator who is dissatisfied with what happened to some amendment of his is privileged to get up and move to amend this amendment and reopen the issue. So all these major issues that we have been debating for 3 weeks would be opened up to a vote again.

If this amendment is going to be insisted on, I will insist on a division and a vote on the Gore amendment, and then the Ribicoff amendment, and all the other amendments, if we can muster a quorum by that time.

The only thing I am interested in is getting on with our business, reserving to the Senator from Nebraska, or any other Senator, the right to move to recommit the bill with any instructions they suggest, if we ever get to a third reading.

On that basis, Mr. President, because this amendment reopens all of the amendments that are most controversial, except the social security amendment, I move to lay the amendment on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Nebraska.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Oklahoma (Mr. HARRIS), and the Senator from Rhode Island (Mr. PASTORE) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Vermont (Mr. PROUTY) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCOTT), and the Senator from Illinois (Mr. SMITH) are detained on official business.

If present and voting, the Senator from Vermont (Mr. PROUTY) would vote "yea."

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from Arizona (Mr. GOLDWATER). If present and voting, the Senator from Colorado would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 56, nays 28, as follows:

[No. 218 Leg.]

YEAS—56

Aiken	Gore	Mondale
Allen	Gravel	Montoya
Bayh	Hart	Moss
Bellmon	Hartke	Muskie
Bible	Hatfield	Nelson
Brooke	Holland	Pell
Burdick	Hollings	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Inouye	Ribicoff
Cannon	Jackson	Schweiker
Case	Jordan, N.C.	Sparkman
Church	Long	Spong
Cranston	Magnuson	Stennis
Dodd	Mansfield	Stevens
Eagleton	Mathias	Talmadge
Eastland	McGee	Williams, N.J.
Ellender	McGovern	Yarborough
Ervin	McIntyre	Young, N. Dak.
Fong	Metcalf	

NAYS—28

Allott	Goodell	Packwood
Baker	Griffin	Pearson
Bennett	Gurney	Percy
Boggs	Hansen	Saxbe
Cook	Hruska	Smith, Maine
Cooper	Javits	Thurmond
Cotton	Jordan, Idaho	Tower
Curtis	McClellan	Williams, Del.
Dole	Miller	
Fannin	Murphy	

NOT VOTING—16

Anderson	McCarthy	Smith, Ill.
Dominick	Mundt	Symington
Fulbright	Pastore	Tydings
Goldwater	Prouty	Young, Ohio
Harris	Russell	
Kennedy	Scott	

So Mr. LONG's motion to lay Mr. CURTIS' amendment on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. The Chair recognizes the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I call up my amendment No. 202, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT LEGISLATIVE CLERK. The Senator from Alabama (Mr. SPARKMAN) proposes an amendment, identified as No. 202, and modified to read as follows:

At the proper place insert the following new section:

"SEC. —. DISTRIBUTIONS PURSUANT TO SAVINGS AND LOAN HOLDING COMPANY AMENDMENTS OF 1967.

"(a) IN GENERAL.—Subchapter 0 of chapter 1 (relating to gain or loss on disposition of property) is amended by adding at the end thereof the following new part:

"'PART X—DISTRIBUTIONS PURSUANT TO SAVINGS AND LOAN HOLDING COMPANY AMENDMENTS OF 1967

"'Sec. 1121. Distributions pursuant to Savings and Loan Holding Company Amendments of 1967.

"'Sec. 1122. Special rules.

"'Sec. 1123. Definitions.

"'SEC. 1121. DISTRIBUTIONS PURSUANT TO SAVINGS AND LOAN HOLDING COMPANY AMENDMENTS OF 1967.

"'(a) DISTRIBUTIONS OF CERTAIN NON-SAVINGS-AND-LOAN PROPERTY.—

"'(1) DISTRIBUTIONS OF PROHIBITED PROPERTY.—

If—

"'(A) a qualified holding company distributes prohibited property (other than stock received in an exchange to which subsection (c) (2) applies)—

"'(i) to a shareholder (with respect to its stock held by such shareholder, without the surrender by such shareholder of stock in such company; or

"'(ii) to a shareholder, in exchange for its preferred stock; or

"'(iii) to a security holder, in exchange for its securities; and

"'(B) the Corporation has, before the distribution (or January 1, 1971, if later), certified that the distribution of such prohibited property is necessary or appropriate to effectuate section 408 of the National Housing Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

"'(2) DISTRIBUTIONS OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (C) (2) APPLIES.—If—

"'(A) a qualified holding company distributes—

"'(i) common stock received in an exchange to which subsection (c) (2) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such company; or

"'(ii) common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its common stock; or

"'(iii) preferred stock or common stock received in an exchange to which subsection (c) (2) applies to a shareholder, in exchange for its preferred stock; or

"'(iv) securities or preferred or common stock received in an exchange to which subsection (c) (2) applies to a security holder in exchange for its securities; and

"'(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchange,

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

"'(3) NON PRO RATA DISTRIBUTIONS.—Paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified holding company.

"'(4) EXCEPTION.—This subsection shall not apply to any distribution by a company which has made any distribution pursuant to subsection (b).

"'(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies, but which—

"'(A) results in a gift, see section 2501, and following, or

"'(B) has the effect of the payment of compensation, see section 61(a) (1).

"'(b) COMPANY CEASING TO BE A HOLDING COMPANY OR MULTIPLE HOLDING COMPANY.—

"'(1) DISTRIBUTIONS OF PROPERTY WHICH CAUSE A COMPANY TO BE A HOLDING COMPANY OR MULTIPLE HOLDING COMPANY.—If—

"'(A) a qualified holding company distributes property (other than stock received in an exchange to which subsection (c) (3) applies)—

"'(i) to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such company; or

"'(ii) to a shareholder, in exchange for its preferred stock; or

"'(iii) to a security holder, in exchange for its securities; and

"'(B) the Corporation has, before the distribution (or January 1, 1971, if later), certified—

"'(i) in the case of a multiple holding company, that such property is all or part of the property by reason of which such company controls two or more insured institutions (as defined in section 408(a) (1) (A) of the National Housing Act), or such property is part of the property by reason of which such company did control two or more insured institutions before any property of the same kind was distributed under this subsection or exchanged under subsection (c) (3); or

"'(ii) in the case of any other holding company, that such property is all or part of the property by reason of which such company controls an insured institution (as defined in section 408(a) (1) (A) of the National Housing Act) or holding company, or such property is part of the property by reason of which such company did control an insured institution or holding company before any property of the same kind was distributed under this subsection or exchanged under subsection (c) (3); and

"'(iii) that the distribution is necessary or appropriate to effectuate section 408 of such Act,

then no gain to the shareholder or security holder from the receipt of such property shall be recognized.

"'(2) DISTRIBUTIONS OF STOCK AND SECURITIES RECEIVED IN AN EXCHANGE TO WHICH SUBSECTION (C) (3) APPLIES.—If—

"'(A) a qualified holding company distributes—

"'(i) common stock received in an exchange to which subsection (c) (3) applies to a shareholder (with respect to its stock held by such shareholder), without the surrender by such shareholder of stock in such company; or

"'(ii) common stock received in an exchange to which subsection (c) (3) applies to a shareholder, in exchange for its common stock; or

"'(iii) preferred stock or common stock received in an exchange to which subsection (c) (3) applies, to a shareholder in exchange for its preferred stock; or

"'(iv) securities or preferred or common stock received in an exchange to which subsection (c) (3) applies to a security holder, in exchange for its securities; and

"'(B) any preferred stock received has substantially the same terms as the preferred stock exchanged, and any securities received have substantially the same terms as the securities exchanged.

then, except as provided in subsection (f), no gain to the shareholder or security holder from the receipt of such stock or such securities or such stock and securities shall be recognized.

"'(3) NON PRO RATA DISTRIBUTION.—Paragraphs (1) and (2) shall apply to a distribution whether or not the distribution is pro rata with respect to all of the shareholders of the distributing qualified holding company.

"'(4) EXCEPTION.—This subsection shall not apply to any distribution by a company which has made any distribution pursuant to subsection (a).

"'(5) DISTRIBUTIONS INVOLVING GIFT OR COMPENSATION.—In the case of a distribution to which paragraph (1) or (2) applies, but which—

"'(A) results in a gift, see section 2501, and following, or

"'(B) has the effect of the payment of compensation, see section 61(a) (1).

"'(c) PROPERTY ACQUIRED AFTER APRIL 14, 1967.—

"'(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), subsection (a) or (b) shall not apply to—

"'(A) any property acquired by the distributing company after April 14, 1967, unless (i) gain to such company with respect to the receipt of such property was not recognized by reason of subsection (a) or (b), or (ii) such property was acquired by it in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) such property was acquired by the distributing company in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 with respect to a reorganization described in section 368 (a) (1) (E) or (F), or

"'(B) any property which was acquired by the distributing company in a distribution with respect to stock acquired by such company after April 14, 1967, unless such stock was acquired by such company (i) in a distribution (with respect to stock held by it on April 14, 1967, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b), or (ii) in exchange for all of its stock in an exchange to which paragraph (2) or (3) applies, or (iii) in a transaction in which gain was not recognized under section 305(a) or section 332, or under section 354 with respect to a reorganization described in section 368(a) (1) (E) or (F), or

"'(C) any property acquired by the distributing company after April 14, 1967, in a transaction in which gain was not recognized under section 332, unless such property was acquired from a company which, if it had been a holding company or multiple holding

company, could have distributed such property under subsection (a)(1) or (b)(1).

"'(2) EXCHANGES INVOLVING PROHIBITED PROPERTY.—If—

"'(A) any qualified holding company exchanges (i) property, which, under subsection (a)(1), such company could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders, and other property (except property described in subsection (b)(1)(B) (i) or (ii)), for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

"'(B) immediately after the exchange, the qualified holding company distributes all of such stock in a manner prescribed in subsection (a)(2)(A); and

"'(C) before such exchange (or January 1, 1971, if later), the Corporation has certified (with respect to the property exchanged which consists of property which, under subsection (a)(1), such company could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders and other property (except prohibited property) for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

"'(B) immediately after the exchange, the qualified holding company distributes all of such stock in a manner prescribed in subsection (b)(2)(A); and

"'(C) before such exchange (or January 1, 1971, if later) the Corporation has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such company could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 408 of such Act, then paragraph (1) shall not apply with respect to such distribution.

"'(3) EXCHANGES INVOLVING INTERESTS IN SAVINGS AND LOAN PROPERTY.—If—

"'(A) any qualified holding company exchanges (i) property which, under subsection (b)(1), such company could distribute directly to its shareholders or security holders without the recognition of gain to such shareholders or security holders and other property (except prohibited property) for (ii) all of the stock of a second corporation created and availed of solely for the purpose of receiving such property;

"'(B) immediately after the exchange, the qualified holding company distributes all of such stock in a manner prescribed in subsection (b)(2)(A); and

"'(C) before such exchange (or January 1, 1971, if later) the Corporation has certified (with respect to the property exchanged which consists of property which, under subsection (b)(1), such company could distribute directly to its shareholders or security holders without the recognition of gain) that the exchange and distribution are necessary or appropriate to effectuate section 408 of such Act, then paragraph (1) shall not apply with respect to such distribution.

"'(d) DISTRIBUTION TO AVOID FEDERAL INCOME TAX.—

"'(1) PROHIBITED PROPERTY.—Subsection (a) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after April 14, 1967, to any corporation, property (other than prohibited property) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

"'(2) SAVINGS AND LOAN PROPERTY.—Subsection (b) shall not apply to a distribution if, in connection with such distribution, the distributing corporation retains, or transfers after April 14, 1967, to any corporation, property (other than property described in subsection (b)(1)(B) (i) and (ii) as part of a plan one of the principal purposes of which is the distribution of the earnings and profits of any corporation.

"'(3) CERTAIN CONTRIBUTIONS TO CAPITAL.—In the case of a distribution a portion of which is attributable to a transfer which is a contribution to the capital of a corporation, made after April 14, 1967, and prior to the date of the enactment of this part, if subsection (a) or (b) would apply to such distribution but for the fact that, under paragraph (1) or (2) (as the case may be) of this subsection, such contribution to capital is part of a plan one of the principal purposes of which is to distribute the earnings and profits of any corporation, then, notwithstanding paragraph (1) or (2), subsection (a) or (b) (as the case may be) shall apply to that portion of such distribution not attributable to such contribution to capital, and shall not apply to that portion of such distribution attributable to such contribution to capital.

"'(e) FINAL CERTIFICATION.—Subsection (a) or (b) shall not apply with respect to any distribution by a company unless the Corporation certifies that, before the expiration of the periods permitted under the relevant provisions of section 408 of the National Housing Act (including any extensions thereof granted to such company under such provisions), the company has (1) disposed of all the property the disposition of which is necessary or appropriate to effectuate such section, or (2) ceased to be a holding company or multiple holding company (as the case may be).

"'(f) CERTAIN EXCHANGES OF SECURITIES.—In the case of an exchange described in subsection (a)(2)(A)(iv) or subsection (b)(2)(A)(iv), subsection (a) or (b) (as the case may be) shall apply only to the extent that the principal amount of the securities received does not exceed the principal amount of the securities exchanged.

"'SEC. 1122. SPECIAL RULES.

"'(a) BASIS OF PROPERTY ACQUIRED IN DISTRIBUTIONS.—If by reason of section 1121 gain is not recognized with respect to the receipt of any property, then, under regulations prescribed by the Secretary or his delegate—

"'(1) if the property is received by a shareholder with respect to stock, without the surrender by such shareholder of stock, the basis of the property received and of the stock with respect to which it is distributed shall, in the distributee's hands, be determined by allocating between such property and such stock the adjusted basis of such stock; or

"'(2) if the property is received by a shareholder in exchange for stock or by a security holder in exchange for securities, the basis of the property received shall, in the distributee's hands, be the same as the adjusted basis of the interest or securities exchanged, increased by—

"'(A) the amount of the property received which was treated as a dividend, and

"'(B) the amount of gain to the taxpayer recognized on the property received (not including any portion of such gain which was treated as a dividend).

"'(b) ALLOCATION OF EARNINGS AND PROFITS.—

"'(1) DISTRIBUTION OF STOCK IN A CONTROLLED CORPORATION.—In the case of a distribution by a qualified holding company under section 1121(a)(1) or (b)(1) of stock in a controlled corporation, proper allocation with respect to the earnings and profits of the distributing corporation and the controlled corporation shall be made under regulations prescribed by the Secretary or his delegate.

"'(2) EXCHANGES DESCRIBED IN SECTION 1121(c) (2) OR (3).—In the case of any exchange described in section 1121(c) (2) or (3), proper allocation with respect to the earnings and profits of the corporation transferring the property and the corporation receiving such property shall be made under regulations prescribed by the Secretary or his delegate.

"'(3) DEFINITION OF CONTROLLED CORPORATION.—For purposes of paragraph (1), the term 'controlled corporation' means a corporation with respect to which at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes is owned by the distributing qualified holding company.

"'(c) PERIODS OF LIMITATION.—The periods of limitation provided in section 6501 (relating to limitations on assessment and collection) shall not expire, with respect to any deficiency (including interest and additions to the tax) resulting solely from the receipt of property by shareholders or security holders in a distribution which is certified by the Corporation under subsection (a), (b), or (c) of section 1121, until 5 years after the distributing company notifies the Secretary or his delegate (in such manner and with such accompanying information as the Secretary or his delegate may by regulations prescribe) that the period (including extensions thereof) prescribed in the relevant provision of section 408 of the National Housing Act, or section 1121 (e), whichever is applicable, has expired; and such assessment may be made notwithstanding any provision of law or rule of law which would otherwise prevent such assessment.

"'(d) ITEMIZATION OF PROPERTY.—In any certification under this part, the Corporation shall make such specification and itemization of property as may be necessary to carry out the provisions of this part.

"'SEC. 1123. DEFINITIONS.

"'(a) HOLDING COMPANY.—For purposes of this part, the term 'holding company' means any corporation which is a savings and loan holding company as defined in section 408(a)(1)(D) of the National Housing Act.

"'(b) MULTIPLE HOLDING COMPANY.—For purposes of this part, the term 'multiple holding company' means any corporation which is a multiple savings and loan holding company as defined in section 408(a)(1)(E) of the National Housing Act.

"'(c) QUALIFIED HOLDING COMPANY.—

"'(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of this part the term 'qualified holding company' means any corporation which is a holding company or multiple holding company (as the case may be) and which holds prohibited property acquired by it—

"'(A) on or before April 14, 1967,

"'(B) in a distribution in which gain to such company with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1121, or

"'(C) in exchange for all of its stock in an exchange described in section 1121(c)(2) or (c)(3).

"'(2) LIMITATIONS.—

"'(A) A holding company or multiple holding company shall not be a qualified holding company, unless it would have been a holding company or multiple holding company, respectively, on April 14, 1967, if the Savings and Loan Holding Company Amendments of 1967 had been in effect on such date, or unless it is a holding company or multiple holding company, respectively, determined solely by reference to—

"'(i) property acquired by it on or before April 14, 1967,

"'(ii) property acquired by it in a distribution in which gain to such company with respect to the receipt of such property was not recognized by reason of subsection (a) or (b) of section 1121, and

"'(iii) property acquired by it in exchange for all of its stock in an exchange described in section 1121(c)(2) or (3).

"'(B) A holding company or multiple holding company shall not be a qualified holding company by reason of property described in subparagraph (B) of paragraph (1) or clause (ii) of subparagraph (A) of this paragraph, unless such property was acquired in a distribution with respect to stock, which stock was acquired by such holding company or multiple holding company, respectively—

"'(i) on or before April 14, 1967,

"'(ii) in a distribution (with respect to stock held by it on April 14, 1967, or with respect to stock in respect of which all previous applications of this clause are satisfied) with respect to which gain to it was not recognized by reason of subsection (a) or (b) of section 1121, or

"'(iii) in exchange for all of its stock in an exchange described in section 1121(c)(2) or (3).

"'(C) A company shall be treated as a qualified holding company only if the Corporation certifies that it satisfies the foregoing requirements of this subsection.

"'(d) PROHIBITED PROPERTY.—For purposes of this part, the term 'prohibited property' means in the case of any holding company or multiple holding company, property (other than nonexempt property) the disposition of which would be necessary or appropriate to effectuate section 408 of the National Housing Act if such company continued to be a holding company or multiple holding company (as the case may be) beyond the relevant period specified in such Act.

"'(e) NONEXEMPT PROPERTY.—For purposes of this part, the term "nonexempt property" means—

"'(1) obligations (including notes, drafts, bills of exchange, and bankers' acceptances) having a maturity at the time of issuance of not exceeding 24 months, exclusive of days of grace;

"'(2) securities issued by or guaranteed as to principal or interest by a government or subdivision thereof or by any instrumentality of a government or subdivision; or

"'(3) money, and the right to receive money not evidenced by a security or obligation (other than a security or obligation described in paragraph (1) or (2)).

"'(f) CORPORATION.—For purposes of this part, the term "Corporation" means the Federal Savings and Loan Insurance Corporation.'

"(b) CLERICAL AMENDMENT.—The table of parts for subchapter O of chapter 1 is amended by adding at the end thereof the following:

"'Part X—Distributions pursuant to Savings and Loan Holding Company Amendments of 1967'

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to taxable years ending after the date of the enactment of this Act.

Mr. SPARKMAN. Mr. President, I have modified the amendment as printed by changing the date "1970" to "1971" in the following places:

Page 2, line 20.

Page 5, line 15.

Page 10, line 21.

Page 11, line 21.

Mr. President, I shall be very brief, and I shall not ask for a record vote.

This is an amendment requested by the Home Loan Bank Board. The amendment was prepared by the Treasury Department, and it seeks to do simply this: When we passed the Bank Holding Act, providing a time to divest of certain properties they owned, they were given a particular tax treatment. Last year or 2 years ago, we passed the Savings and Loan Holding Act, and required time to divest. That act was patterned exactly after the Bank Holding Act.

This amendment provides only that the Savings and Loan Associations be given the same tax treatment we gave the banks.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. WILLIAMS of Delaware. I have looked at the Senator's amendment, and I do not know just how much is involved—what treatment is to be provided and what effects it will have. It does embrace a new formula for taxing this particular group. While I realize that the Senator has great interest in it, I have been wondering if he will not withdraw his amendment tonight in order to give our committee a chance to look at it to see just how far-reaching it is and just what treatment it will provide. I will assure him, as one member of the committee, that we will give it our attention, and I think the chairman will concur in that, but I hate to vote on it tonight when we do not know what the effect of the treatment provided is going to be and how far it is going to reach.

As I say, I hope the Senator will withdraw it, with the promise that it will be given consideration by the committee. That is not just a brush-off; it is a promise.

Mr. SPARKMAN. Mr. President, let me say this: I do not agree that it provides a new formula, because this is the first treatment since we passed the Savings and Loan Holding Act, and it applies the same formula that we did apply to the banks under the same pattern of divestiture.

I offered this amendment before the committee, in September, I think it was. But I have talked with the Senator from Delaware and the Senator from Louisiana. The Senator from Delaware has told me that there will be other tax bills during this Congress—though not this session—and that that will give us an opportunity to present it again, and give him and his staff and the committee staff an opportunity to examine it and go into it carefully.

Mr. President, with that assurance from both the chairman of the committee—I think I have his assurance—and the ranking Republican member of the committee, I withdraw the amendment, and will present it at the first opportunity.

The PRESIDING OFFICER. The amendment is withdrawn. The bill is open to further amendment.

Mr. CANNON. Mr. President, I send to the desk an amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be waived, and I shall explain it very briefly.

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

Mr. CANNON's amendment is as follows:

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) LIMITATION.—

"'(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 whose name is presented for election as President of the United States, Vice President of the United States, an elector for President or Vice President of the United States, a Member of the Senate, or a Member of the House of Representatives in a general or special election, in a primary election, or in a convention of a political party, for use by such individual to further his candidacy for any such office; or

"'(B) a committee acting in behalf of an individual or individuals described in paragraph (A), for use by such committee to further the candidacy of such individual or individuals.

"'(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. Overpayment 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. CANNON. This is the same amendment that the Senator from Massachusetts (Mr. KENNEDY) offered a few days ago, except that his was a broader amendment, providing an across-the-board deduction for political contributions. This amendment relates only to contributions for campaigns for Federal offices—for Congress, for Senator, for Vice President and President of the United States—and contributions to national committees.

Senator KENNEDY's amendment lost by five votes the other day, on the basis—and I voted against it—that it was too broad, because it would have gone down to every local office, including those of dog catcher and assessor. As the distinguished Senator from Kentucky pointed out, it might even have resulted in some parties of some sort being paid for by the Federal Government.

The amount of deduction is exactly the same in this amendment as was proposed in the Kennedy amendment except that it is very clearly limited to candidates for Federal office and for President and Vice President of the United States in national political elections.

Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. PEARSON. Mr. President, would that apply to primaries as well for Federal office?

Mr. CANNON. It would apply also to primaries for Federal office. It would apply to whoever files under State law whether or not he is elected, in a political primary.

Mr. STEVENS. Mr. President, is it a deduction or a credit?

Mr. CANNON. It is a tax credit. It will not exceed $25 per couple if a husband and wife file jointly, or $12.50 for a single individual.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. LONG. Mr. President, the amendment raises once again a problem that I thought we had disposed of. The matter ought to be studied.

We have done a lot of work in this area. We did report a bill out to do what we thought ought to be done about campaign financing. I thought we had voted on the issue. Those who voted against the Dole amendment did so because they did not think that matter ought to be brought up again. It seems to me that at this late hour it is not appropriate to consider this matter—something like this ought to be studied. We could point out a number of things that we think are wrong.

There is no assurance that a candidate would stay in the race at all. We would give the taxpayer a tax credit for contribution to a race for an office, even though the candidate might withdraw.

If we do this, we ought to look into the corrupt practices aspect of the matter.

We should not be putting Federal money into campaign financing effort unless we have tighter regulations as to how it should be spent and unless we tighten up the corrupt practices law.

In view of all the different things we could get involved in through this amendment, I hope that we will not be asked to do this.

I hope that the Senator will be willing to withdraw the matter and give us a chance to study the proposal in the Finance Committee, where we have jurisdiction if it is going to involve a tax credit, rather than insisting here at 6 or 7 minutes to 10 o'clock at night that we consider the matter.

Mr. CANNON. Mr. President, I have no desire to take up the time of the Senate. Forty-five people voted for the proposition straight across the board the other day.

I would have been tempted to go along, but I withheld for consideration by the Finance Committee.

Forty-five Senators the other day said they wanted to give this same exemption all the way across the board for every candidate for office, including dog catcher and justice of the peace. I voted against it. I will vote for this one, and I think we ought to have at least 46 votes tonight.

I am willing to vote at any time.

Mr. WILLIAMS of Delaware. Mr. President, I hope that we do not get into this area tonight. It is almost 10 o'clock. We are trying to reach third reading. We acted upon this measure before and reported a bill from the Finance Committee. We included in that measure a section dealing with election reform. This does not do that. This would just raise the money.

If this amendment is agreed to, I would be compelled to bring up the matter of the campaign reporting system. That has nothing to do with this bill.

I hope that we can lay this aside tonight and proceed to third reading on a bill that we have been working on for 3 months.

Mr. LONG. Mr. President, if we get involved in this extraneous matter, it seems to me that we should consider the suggestion of the Senator from Delaware and also consider amendments in the corrupt practices area of the law, because we insisted on making that part of the campaign financing law when we considered it before. I believe that the votes are there, but I believe we ought to stay out of the campaign financing field at this time. We would have to debate the matter, offer amendments, and consider the various phases of it.

Mr. COOK. Mr. President, how could any Member of the United States Senate vote on this and say that he had voted to provide for the tax credits with respect to contributions for himself to run for the United States Senate but that with respect to a man running for Governor of his State or for the State legislature or for any local office at the State level, the contributor could not get a tax credit for his contribution.

It seems to me that we are somehow or other setting ourselves aside as a different kind of candidate than other people who run for responsible offices at the State level.

We have former State Governors who are Senators. How could they vote for this and say to a candidate in their respective States, "Someone can give me a contribution and get a tax credit for it. However, if you run for a State office, no one can do that in your case."

Mr. LONG. Mr. President, there are many things that are wrong with the proposal. It should be studied so that we might correct some of the shortcomings.

We want to reach third reading tonight. We ought to leave this issue with the committee that has jurisdiction to study it and have it bring in a proposal that would meet the objections that have been raised.

Mr. MANSFIELD. Mr. President, I am more interested in electoral reform than in the tax credit on the basis just proposed by the Senator from Nevada.

Mr. LONG. Mr. President, that being the case, in the hope that we will not have the campaign finance reporting fight all over again and will not get involved in those amendments, I promise the Senator that as far as I am concerned I am willing to study the proposals in the reform area early next year.

Mr. President, so that we can get a third reading and not have to consider the amendments and suggestions and proposals, including one that I have in mind, I move that the amendment of the Senator from Nevada be tabled.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Nevada.

Mr. CANNON. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Nevada. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Oklahoma (Mr. HARRIS), the Senator from Indiana (Mr. HARTKE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

On this vote, the Senator from Rhode Island (Mr. PASTORE) is paired with the Senator from Oklahoma (Mr. HARRIS). If present and voting, the Senator from Rhode Island would vote "yea" and the Senator from Oklahoma would 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.

The Senator from Vermont (Mr. PROUTY) is necessarily absent.

The Senator from Colorado (Mr. DOMINICK), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Illinois, (Mr. SMITH), and the Senator from Texas (Mr. TOWER), and the Senator from Ohio (Mr. SAXBE), are detained on official business.

If present and voting, the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Vermont (Mr. PROUTY), and the Senator from Texas (Mr. TOWER), would each vote "yea."

The result was announced—yeas 55, nays 26, as follows:

[No. 219 Leg.]

YEAS—55

Aiken	Ervin	McClellan
Allen	Fannin	McIntyre
Allott	Fong	Miller
Baker	Goodell	Murphy
Bellmon	Gore	Packwood
Bennett	Griffin	Percy
Bible	Gurney	Randolph
Boggs	Hansen	Schweiker
Brooke	Hatfield	Smith, Maine
Byrd, Va.	Holland	Sparkman
Byrd, W. Va.	Hollings	Spong
Case	Hruska	Stennis
Cook	Javits	Stevens
Cooper	Jordan, N.C.	Talmadge
Cotton	Jordan, Idaho	Thurmond
Curtis	Long	Williams, Del.
Dole	Magnuson	Young, N. Dak.
Eastland	Mansfield	
Ellender	Mathias	

NAYS—26

Bayh	Hughes	Muskie
Burdick	Inouye	Nelson
Cannon	Jackson	Pearson
Church	McGee	Pell
Cranston	McGovern	Proxmire
Dodd	Metcalf	Ribicoff
Eagleton	Mondale	Williams, N.J.
Gravel	Montoya	Yarborough
Hart	Moss	

NOT VOTING—19

Anderson	McCarthy	Smith, Ill.
Dominick	Mundt	Symington
Fulbright	Pastore	Tower
Goldwater	Prouty	Tydings
Harris	Russell	Young, Ohio
Hartke	Saxbe	
Kennedy	Scott	

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair wishes to announce for the information of the Senate that the Senate has just completed its 20th rollcall today.

Mr. LONG. Mr. President, I have amendments at the desk. I ask that they be read.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk proceeded to read the amendment.

Mr. LONG. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be printed in the RECORD.

The amendments are as follows:

TECHNICAL AND CLERICAL AMENDMENTS

Page 51, line 4, after "tion" insert a comma.

Page 64, line 22, strike out "a State" and insert "an appropriate State".

Page 72, line 17, strike out "audit" and insert "audit-fee".

Page 72, line 20, strike out "881" and insert "861".

Page 74, lines 17 and 18, strike out "transaction to which paragraph (1) applies" and insert "prohibited transaction".

Page 77, line 25, beginning with ", if", strike out all through "on" in line 5, page 78.

Page 83, line 4, strike out "section" and insert "subsection".

Page 84, line 10, strike out the comma after "(a)".

Page 91, line 18, strike out "title" and insert "heading".

Page 97, line 12, strike out "title" and insert "heading".

Page 97, line 22, strike out "five" and insert "5".

Page 102, line 10, strike out "title" and insert "heading".

Page 120, line 23, strike out "corporation" and insert "organization".

Page 122, line 4, before "property" insert "for purposes of this paragraph as personal property any".

Page 122, line 14, strike out "such personal property" and insert "personal property described in subparagraph (A)(ii)".

Page 126, line 11, strike out "organizations" and insert "persons".

Page 128, line 23, strike out "paragraph" and insert "paragraphs".

Page 129, lines 11 and 12, strike out "or educational" and insert "educational, and fraternal".

Page 131, line 10, after "(j)" insert "(7)".

Page 134, line 11, strike out "subsection" and insert "paragraph".

Page 134, line 15, strike out "carryover or" and insert "carryback or".

Page 141, line 6, after "etc."—insert "For purposes of this subsection—".

Page 142, line 9, strike out "An" and insert "For purposes of this section, an".

Page 142, lines 11 and 12, strike out ", for the purpose of this section.".

Page 142, line 14, after "section" insert a comma.

Page 144, line 1, after "amount" insert a comma.

Page 144, line 13, strike out "If the" and insert "For purposes of this subtitle, if".

Page 144, lines 15 and 16, strike out ", for the purposes of this subtitle,".

Page 164, line 7, strike out "so sold" and insert "sold by the taxpayer at its fair market value (determined at the time of such contribution)"

Page 186, line 20, beginning with "with" strike out all through "in" in line 22, and insert "to".

Page 188, line 16, strike out "(c)" and insert "(C)".

Page 199, line 13, strike out "subchapter 1" and insert "subchapter P of chapter 1".

Page 200, line 2, strike out "nine" and insert "9".

Page 213, line 12, after "liability" insert "not imposed for the taxable year but".

Page 213, line 16, strike out "subparagraph (B)" and insert "paragraph (1)(B)".

Page 221, beginning with "(other than" in line 13, strike out all through line 20, and insert: "shall be treated as items of tax preference of the shareholders of such corporation, and, except as provided in paragraph (2), shall not be treated as items of tax preference of such corporation. The sum of the items so treated shall be apportioned pro rata among such shareholders in a manner consistent with section 1374(c)(1).

"(2) CERTAIN CAPITAL GAINS.—If for a taxable year of an electing small business corporation a tax is imposed on the income of such corporation under section 1378, such corporation shall, notwithstanding the provisions of section 1371(b)(1), be subject to the tax imposed by section 56, but computed only with reference to the item of tax preference set forth in section 57(a)(9)(B)."

Page 221, line 25, after "fund" insert "(and not as items of tax preference of such fund)".

Page 222, line 10, after "is" insert "attributable to amounts".

Page 222, line 20, after "trust," insert "(and not as items of tax preference of such company or such trust)".

Page 224, line 5, strike out "held for more than 6 months".

Page 228, line 20, after "221" insert "(b)".

Page 229, line 22, strike out "individual" and insert "person".

Page 233, line 25, strike out "individual" and insert "person".

Page 234, strike out lines 1, 2, and 3 and insert: "shall be allowed for the taxable year of such person which ends with or within the taxable year in which such amount is included in gross income of the person who performed such services."

Page 240, line 9, strike out "five" and insert "5".

Page 245, line 4, after "allowed" insert "as".

Page 245, line 6, after "distributed" insert "to such beneficiary".

Page 246, line 24, strike out "(i)".

Page 247, line 4, beginning with "less" strike out all through the comma in line 6.

Page 247, line 7, strike out "(i)".

Page 247, line 19, beginning with "less" strike out all through line 21 and insert: "less an amount equal to the amount of taxes deemed distributed to the beneficiary under sections 666(b) and (c)."

Page 248, line 4, strike out "each".

Page 248, strike out lines 5 through 20 and insert:

"(B) The partial tax shall not be computed under the provisions of subparagraph (B) of paragraph (1) if in the same prior taxable year of the beneficiary in which any part of the accumulation distribution is deemed under section 666(a) to have been distributed to such beneficiary some part of prior accumulation distribution by each of two or more other trusts is deemed under section 666(a) to have been distributed to such beneficiary.

Page 248, line 25, strike out "of the average".

Page 249, line 1, strike out "undistributed net income deemed distributed" and insert "accumulated distribution divided by the number of preceding taxable years to which the accumulation distribution is allocated under section 666(a)".

Page 250, line 15, after "income" insert "(other than amounts deemed distributed under section 666 and 669 by the same or other trusts)".

Page 252, line 4, strike out the period and insert a comma.

Page 252, beginning with "The" strike out all through "by" in line 6 and insert "less".

Page 253, line 4, before the period insert "and without regard to any capital gain distribution for any succeeding taxable year".

Page 296, line 14, before "Subchapter" insert "(a) IN GENERAL.—"

Page 297, after line 20, insert:

"(b) CLERICAL AMENDMENT.—The table of parts for suchapter C of chapter 1 is amended by adding at the end thereof the following new item:

"'Part VI. Treatment of certain corporate interests as stock or indebtedness.'"

Page 323, line 6, after "elects" insert "at such time and".

Page 327, line 11, after "services" insert "or other communication services if furnished or sold by the Communication Satellite Corporation for purposes authorized by the Communications Satellite Act of 1962 (47 U.S.C. 701),".

Page 350, line 19, strike out "(e)" and insert "(f)".

Page 409, strike out lines 10 through 14, and insert:

"(b) RECEIPT OF MINIMUM DISTRIBUTIONS.—Section 263(b) (relating to receipt of minimum distributions) is amended—

"(1) by striking out 'surcharge period' in the heading of paragraph (1) and inserting in lieu thereof 'surcharge period ending before January 1, 1970';

"(2) by striking out '1964' in the heading of paragraph (2) and inserting in lieu thereof '1964 and taxable years beginning in 1969 and ending in 1970 to the extent subparagraph (B) applies'; and

"(3) by striking out the last two sentences and inserting in lieu thereof the following:

"'In the case of a taxable year beginning before the surcharge period and ending within the surcharge period, or beginning within the surcharge period and ending after the surcharge period, or beginning before January 1, 1970, and ending after December 31, 1969, the required minimum distribution shall be equal to the sum of—

"'(A) that portion of the minimum distribution which would be required if the provisions of paragraph (1) were applicable to the taxable year, which the number of days in such taxable year which are within the surcharge period and before January 1, 1970, bears to the total number of days in such taxable year,

"'(B) that portion of the minimum distribution which would be required if the provisions of paragraph (2) were applicable to such taxable year, which the number of days in such taxable year which are within the surcharge period and after December 31, 1969, bears to the total number of days in such taxable year, and

"'(C) that portion of the minimum distribution which would be required if the provisions of paragraph (3) were applicable to such taxable year, which the number of days in such taxable year which are not within the surcharge period bears to the total number of days in such taxable year. As used in this subsection, the term "surcharge period" means the period beginning January 1, 1968 and ending June 30, 1970'."

Page 444, line 21, strike out "of the Department".

Page 445, line 24, strike out the comma.

Page 453, in the matter following line 2, strike out the closing quotation marks after "stock.".

Page 453, line 18, strike out "unadjusted".

Page 518, line 8, after "(E)" the second place it appears insert a comma.

Page 523, line 20, after "excess" insert "as if the property distributed had been sold at the time of the distribution".

Page 535, line 4, strike out "of a" and insert "of such".

Page 539, line 13, after "construction" insert ", reconstruction,".

Page 539, line 15, after "struct" insert ", reconstruct,".

Page 550, line 14, strike out "(c).'" and insert "(c);'."

Page 554, strike out lines 17 through 23 and insert:

"(c) LIMITATIONS AND SPECIAL RULE.—

"(1) Additions under more than one paragraph.—

"(A) With respect to any return, the amount of the addition under paragraph (1) of subsection (a) shall be reduced by the amount of the addition under paragraph (2) of subsection (a) for any month to which an addition to tax applies under both paragraphs (1) and (2).

"(B) With respect to any return, the maximum amount of the addition permitted under paragraph (3) of subsection (a) shall be reduced by the amount of the addition under paragraph (1) of subsection (a) which is attributable to the tax for which the notice and demand is made."

Page 554, line 24, strike out "less" and insert "more".

Page 556, line 21, after "prescribed" insert "by law (without regard to any extension of time)".

Page 557, line 8, strike out "(c)" and insert "(e)".

Mr. LONG. Mr. President, these are purely technical amendments that have been prepared by the staff. They are technical and conforming amendments, for clerical purposes.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MANSFIELD. 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. 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.

COMMITTEE MEETING DURING SENATE SESSION TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet during the session of the Senate tomorrow.

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

CHANGE OF VOTE

Mr. BYRD of West Virginia. Mr. President, the Hartke amendment to the Miller amendment was defeated by a vote of 31 to 52 on rollcall 215. I voted in the negative. I ask unanimous consent that my vote be changed to a "yea" vote and that the Journal and permanent RECORD so show.

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

VETERANS DAY ADDRESS BY BILL ALLEY, FORMER OLYMPIC CHAMPION

Mr. MILLER. Mr. President, one of America's finest athletes is Bill Alley, former Olympic champion in the javelin throw.

Now a resident of Morrisville, Vt., and originally from New Jersey, Bill is a graduate of the University of Kansas. His college days brought him into national prominence, and the people of my State of Iowa were privileged to see him in outstanding performances at the annual Drake Relays in Des Moines.

Bill delivered a magnificent message on the occasion of Veterans Day, November 11, 1969—one which everyone should have an opportunity to read because of its meaningfulness.

I ask unanimous consent that it be printed in the RECORD.

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

STRUGGLE AND FIND HAPPINESS

I would like to tell you one of the most moving sports stories of all time. It began with a boy named Charlie Paddock, back in 1920, who went to a track coach one day and said: "I want to be an Olympic champion. I want to be the fastest sprinter in the world."

"Well, Charlie," the coach told him, "You can if you think you can, but more than that, you will have to work, discipline yourself, live a clean life, and put your faith in God. The secret of becoming a greater sprinter is to develop your legs until they are like pistons. To get this kind of strength in your legs, you have to have it in your heart and in your mind. And when you get it, then you can pull up your knees to your chest and drive like a locomotive on a railroad."

Charlie Paddock did go on to be an Olympic champion and the world's fastest sprinter. His fame brought him many speaking engagements. Once before a group of young people he spoke about what you can do through struggle and hard work. Then he looked about him and said, "Somewhere in this room maybe there is another Olympic champion, but if not in sports, at least in life. It's more important to be a champ in living."

After the speech, a shy little spindly Negro boy came up and announced, "Mr. Paddock, you've done something to me. I would like to be an Olympic champion."

Paddock put his hand on the lad's shoulder and said to him: "Son, you can, if you think you can. Then to that you must add real hard work. Give it all you've got and discipline yourself, and have a lot of faith in God."

And eventually the time came when that boy, whose name was Jesse Owens, won four Olympic championships. And he was asked to make many speeches. Remembering the inspiration he had received from Charlie Paddock, he told one audience of youngsters: "Somewhere in this room there is, I am sure, another Olympic champion, if not in sports at least in life."

And afterwards, a skinny little Negro boy came up to him, shook hands and told him exactly what he himself had told Charlie Paddock many years before. Owens looked at the boy and thought he had never seen a skinnier youngster in his life; indeed it turned out that the boy's nickname was "Bones". But nevertheless, Owens said, "You can if you think you can, if you are willing to struggle, work and believe. Harrison "Bones" Dillard went on to break Jesse Owens Olympic record.

Each of these great athletes struggled to achieve their successes and the happiness that came to them. And of course, all of us must struggle if we wish to receive real happiness. Struggle isn't destructive, it's constructive, and it makes success and happiness all the sweeter.

Harrison Dillard came to my high school in my sophomore year and showed pictures of the 1952 Olympics, I didn't at all think then that my athletic career would unfold as it did, but I can remember very vividly the great crowds and the feelings that I had inside—I wanted to be a great athlete and wanted to participate in the Olympics. I too, wanted to be an Olympic champion.

During the summer of 1960, I was very fortunate in being chosen to represent the United States in the 17th Olympiad. The opportunity to participate in the Olympic games had been my goal for many years, and I looked forward to my trip with much anxiety and anticipation. The pageantry and excitement of this great event were paramount. People from the world over came to watch this great exhibition of athletic prowess. However, the greatest thrills of all did not come from the competition. Thrills of a greater magnitude than one could imagine were prevalent among all in attendance.

As we marched into the stadium for the opening ceremonies, I realized (and I was not alone) how proud I am to be an American. And then as our flag was raised to the top of the standard and our National Anthem played, the team members stood at attention. It seems as though one really never learns to appreciate the "Star Spangled Banner" until one hears it played in a foreign land. We tried to sing the words, but nothing came out. We were choked up inside. Outwardly, tears were falling from the eyes of world-record-holders and some of the greatest athletes were realizing for the first time what it meant to represent the greatest nation in the world.

The competition commenced the following day and continued for two weeks. Each day, and when I was not competing, I would go to the stadium and watch the events. Every jump, every dash, every throw had me on the edge of my seat. At the conclusion of each event, I would look out onto the field and try to recognize the familiar U.S.A. on the shirts of the winners. In some events, we didn't fare well at all, but in the events that we placed, I felt like running onto the field and being the first to congratulate a teammate.

The slogan of the games brought out the point that the greatest achievement is not winning but having the opportunity to compete against one's fellowmen. And so the days went by, and the greatest athletes in the world competed against each other. Win or lose, I am sure they all felt the same.

The closing ceremonies officially ended the competition. Again, the athletes from all over the world marched into the stadium. The flag of each nation was lowered and its National Anthem was played. We then marched out of the stadium and for me the greatest thrill in my life had come to an end. As I walked through the long tunnel leading from the stadium to our village, I had but one thought in mind.—I am proud to be an American.

So never give up struggling in your own life. If you attain your dream, go after another and greater one. In the long run the happiest achievement in this life is making a man out of yourself; and the greatest joy of all is in the struggling to do something really worthwhile. Struggle and happiness are opposite sides of the same coin. As each of us go out into the world in our daily quest for happiness and security, keep in mind a little saying, it is my favorite—If what you did yes-

terday seems great, you've not done much today.

My thanks to each and everyone of you who by serving your country has made is possible for me to have achieved this great love of our country. I want you to personally know that here is a fellow who scorns the activities of the dissenters and the draft card burners, that here is a fellow who says to you—Thanks!

May God bless each and everyone of you.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock tomorrow morning.

The motion was agreed to; and (at 10 o'clock and 10 minutes p.m.) the Senate adjourned until tomorrow, Thursday, December 11, 1969, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 10 (legislative day of December 9), 1969:

DIPLOMATIC AND FOREIGN SERVICE

The following-named person, now a Foreign Service officer of class 2 and a secretary in the diplomatic service, to be also a Consular Officer of the United States of America:

Thomas D. McKiernan, of Massachusetts.

For appointment as a Foreign Service officer of class 4, a consular officer, and a secretary in the diplomatic service of the United States of America:

Howard K. Walker, of Maryland.

For appointment as a Foreign Service officer of class 5, a consular officer, and a secretary in the diplomatic service of the United States of America:

Robert E. Day, Jr., of Virginia.

For promotion from Foreign Service officers of class 7 to class 6:

Frederick Brenne Bachmann, of the District of Columbia.
Ralph Edwin Bresler, of Ohio.
Hugh D. Camitta, of New York.
Lewis I. Cohen, of New York.
Michael W. Cotter, of Wisconsin.
Jon D. Glassman, of California.
David Crane Halsted, of Vermont.
David Taylor Jones, of Pennsylvania.
Miss Alexandra B. Keith, of New York.
Thomas L. Lauer, of California.
James A. S. Leach, of Iowa.
Elliot Rothenberg, of Minnesota.
Joseph C. Snyder, III, of Connecticut.

For promotion from Foreign Service information officers of class 7 to class 6:

Dennis A. Allred, of Illinois.
Sheldon H. Avenius, Jr., of New York.
Robin A. Berrington, of Ohio.
Russell T. Campbell, of Colorado.
Stephen M. Chaplin, of Hawaii.
Ronald D. Clifton, of Florida.
Miss Margaret A. Eubank, of Maryland.
Richard B. Fitz, of California.
Ludlow Flower, III, of California.
John Frankenstein, of the District of Columbia.
Wayne F. Gledhill, of Utah.
Frederick E. V. LaSor, of California.
Miss Marilyn McAfee, of Pennsylvania.
Robert E. McDowell, Jr., of New York.
Miss Caroline V. Meirs, of New Jersey.
H. James Menard, of California.
Robert W. Proctor, of New Mexico.
Christopher W. S. Ross, of the District of Columia.
Miss Janet E. Ruben, of Pennsylvania.
Michael R. Saks, of Indiana.
E. David Seal, of Missouri.
Jack A. Sears, of South Dakota.
John Scott Williams, of Virginia.
Michael M. Yaki, of California.

For promotion from Foreign Service officers of class 8 to class 7:

Morton R. Dworken, Jr., of Ohio.
Hartford Jennings, of Ohio.
George L. Knox, Jr., of Alabama.
Nicholas R. Lang, of New York.
Harlan Y. M. Lee, of Hawaii.

For promotion from Foreign Service information officers of class 8 to class 7:

Raymond D. Anderson, Jr., of the District of Columbia.
Miss Jan Carol Berris, of Michigan.
Miss Ruth L. Greenstein, of New York.
Michael Patrick Phelan, of Michigan.
Boyd Poush, of Virginia.
Leonardo M. Williams, of Minnesota.

For appointment as Foreign Service officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

Jack Aubert, of New Jersey.
John Eignus Clark, of Maryland.
W. Douglas Frank, of Indiana.
Hilton L. Graham, of Oregon.
Miss Anne D. Jillson, of Connecticut.
David I. Kemp, of New York.
Howard H. Lange, of Washington.
John Egan McAteer, of West Virginia.
Alan R. McKee, of New Hampshire.
Mark E. Mohr, of New Jersey.
Anthony Carson Perkins, of the District of Columbia.
Mark J. Platt, of Connecticut.
Craig Emerson Richardson, of Ohio.
William van B. Robertson, Jr., of California.
Richard W. Ruble, Jr., of California.
Paul I. Schlamm, of New York.
Raymond F. Smith, of Pennsylvania.
Douglas K. Stevens, Jr., of Florida.
William H. Twaddell, of Maryland.
Miss Mary von Briesen, of Massachusetts.
Frank Joseph Zambito, Jr., of Florida.

For appointment as Foreign Service information officers of class 7, consular officers, and secretaries in the diplomatic service of the United States of America:

John L. G. Archibald, of Massachusetts.
Thomas W. Switzer, of Colorado.

For appointment as Foreign Service officers of class 8, consular officers, and secretaries in the diplomatic service of the United States of America:

Donald Lee Field, Jr., of California.
Lawrence Mrashall Grossman, of Nebraska.
Albert Lee Halff, of Texas.
David Ellis Henderson, of Illinois.
Robert Taylor, of Texas.

Foreign Service reserve officer to be a consular officer of the United States of America:

Charles E. Behrens, of Pennsylvania.

Foreign Service reserve officers to be consular officers and secretaries in the diplomatic service of the United States of America:

Raymond J. Albright, of Maryland.
Terry T. Baldwin, of Virginia.
James Taylor Blanton, of California.
Richard A. Cleveland, of Pennsylvania.
Jacques Cook, of the District of Columbia.
Christopher D. Costanzo, of the District of Columbia.
Roy G. Davis, of Ohio.
José L. Fernández, of Puerto Rico.
Joseph P. Forry, of Massachusetts.
William J. Galbraith, Jr., of Virginia.
Frederick P. Hitz, of Virginia.
Naran S. Ivanchukov, of New Jersey.
Samuel L. Jefferson, of the District of Columbia.
Miss Patricia Ann Langford, of Mississippi.
Edward R. McGivern, of Maryland.
James F. Myrick, of Illinois.
Robert L. Padgett, of Washington.
Robert K. Sharkey, of the District of Columbia.
Miss Marguerite M. Simonson, of Pennsylvania.
Harry S. Slifer, Jr., of Michigan.
Osborn T. Smallwood, of the District of Columbia.
John H. Trattner, of Virginia.
Mrs. Gerry Van der Heuvel, of Virginia.
James E. Walker, of New York.
James H. Yellin, of Pennsylvania.

Foreign Service staff officers to be consular officers of the United States of America:

Joseph N. Alexander, of North Carolina.
Miss Grace M. Glasgow, of Ohio.
Russell L. Keeton, of California.
Richard E. Kibel, of Ohio.
John M. Long, of Maryland.
Samuel E. Lupo, of North Carolina.
Miss Dolores J. Mann, of Ohio.
David W. McCoy, of California.
James W. McWilliams, of Virginia.
Charles E. Pedonti, of Massachusetts.
Richard A. Ronollo, of Pennsylvania.
L. Benjamin Sargent, Jr., of Wisconsin.
Carroll L. Simmons, of Georgia.
Mitchell Styma, of Ohio.

IN THE COAST GUARD

The following-named officers of the Coast Guard for promotion to the grade of lieutenant commander:

David W. Hiller
Nils Linfors, Jr.
Leon Z. Katcharian
Bruce W. Thompson
Joseph J. O'Connell
Franklin B. Taylor
Roy L. Foote
Harold J. Gellert
Richard J. Kiessel
John G. Denninger, Jr.
Lawrence M. Schilling
David H. Whitten
Jon P. Ryan
Lance A. Eagan
Hugh L. Thomas, Jr.
William J. Wallace, Jr.
Harold L Bonnet
Arthur W. Mergner, Jr.
Elmer Sorensen, Jr.
Frederick A. Kelley
Raymond D. Bland
James F. Greene, Jr.
Joseph J. Smith
Peter C. Hennings
Walter M. Coburn
Henry B. Traver
Wade M. Moncrief, Jr.
David S. Gemmell
Carl H. Burkhart
Neal Mahan
Glenn E. Haines
Timothy G. McKinna
Peter T. Muth
Richard E. Shrum
Michael O. Murtagh
Joseph L. Crowe, Jr.
Cary R. Hall
David Corson
Anthony J. Soltys
William H. Roth
William C. Heming
James A. Umberger
Kwang Ping Hau
Albert F. Baker
William S. Murray
George E. Mason
Norman H. Huff
Don M. Keehn
Thomas D. Smith
Raymond J. Houttekier
David K. Carey
Louis M Casale
Peter M. Bernstein
Wayne P. Stevens
Harry N. Hutchins, III
Thomas W. Watkins, III
James F. Sanders
Hugh W. Nabors
Bly R. Elder
Gary L. Rowe
Branson R. Epler
Stephen L. Richmond
Richard L. Kaufman
Theodore H. Hofer
John K. Andrews
Alan B. Pell
Cyrus E. Potts
Billy D. Lovern
John E. Streeper
Charles J. Niotke
Billy G. Cunningham
Alfred T. Miles
Harold T. Sherman
Heloma L. Goforth
Edward G. O'Keefe
James R. Walsh

The following named Reserve officer to be a permanent commissioned officer in the Coast Guard in the grade of lieutenant commander:

Paul L. Milligan

The following-named Reserve officers to be permanent commissioned officer in the Coast Guard in the grade of lieutenant:

Theodore M. Nutting
Joseph O. Fullmer

CONFIRMATIONS

Executive nominations confirmed by the Senate December 10 (legislative day of December 9), 1969:

U.S. CIRCUIT JUDGE

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

U.S. DISTRICT JUDGES

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

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

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

Cristobal C. Duenas, of Guam, to be judge of the district court of Guam for the term of 8 years.

U.S. ATTORNEY

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years.

U.S. MARSHAL

Harry Connolly, of Oklahoma, to be U.S. marshal for the northern district of Oklahoma for the term of 4 years.

LAW ENFORCEMENT ASSISTANCE

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

U.S. PATENT OFFICE

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

EXTENSIONS OF REMARKS

ALL KINDS OF PEOPLE CAN WORK TOGETHER

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 10, 1969

Mr. BURTON of California. Mr. Speaker, on October 26, 1969, the San Francisco Examiner contained an article entitled "All Kinds of People Can Work Together" concerning the firm of Fred Meyer of California, and the men and women who make up that firm.

It was a warm story, a story of the American ideal at its brightest and best. It was the story of Fred Meyer himself, but it was also the story of everyone who is a part of this unique fireplace accessory firm in San Francisco's Potrero District.

It is the kind of thing that can happen in San Francisco and be taken for granted by all who are directly concerned.

I am taking the liberty of placing the full text of the article in the RECORD at this time, to share it with my colleagues and to give special recognition to the men and women of Fred Meyer of California for whom humanity and decency and democracy are not words but a way of life:

[From the San Francisco Examiner, Oct. 26. 1969]

ALL KINDS OF PEOPLE CAN WORK TOGETHER

(By Jim Harwood)

After a visit to Fred Meyer's little fire-screen factory, you wonder where the rest of the country went wrong.

Because a lot of American industry seems to have lost—or never latched onto—what Fred and his 80 employees take for granted: People can work together without a lot of hassle between races, between management or between male and female.

There are no real clues at Fred Meyer of California on Potrero as to why this is so. But there's considerable evidence that it is so.

First, there's Meyer himself, a semibearded Jewish leprechaun who goes around dropping lines not usually heard from company presidents. "I might be a Communist if I thought Communism would work. Let everybody own everything. But Communism doesn't work—it's too afraid of freedom. So I'm not a Communist."

Although a lot of his liberal ideas would rattle the china at the Commonwealth Club, Meyer actually makes a fairly good exhibit for the capitalistic system. Fleeing the Nazis who murdered his parents in Hamburg, Meyer arrived in New York in 1938 with his wife Ellen. As in all good immigrant success stories, he only had $8.50 in his pocket.

Drifting to California during the war ("I had to go west since on the East Coast we Germans were considered 'enemy aliens.' But out here, the Japanese were the 'enemy' and nobody worried about me"), Meyer fell into selling steel fireplace grates and andirons, two items he knew nothing about.

Joined by several boyhood friends from Hamburg who are still with him, Meyer formed his manufacturing company in 1948 and took off in a Hudson on a national sales tour, driving at night, selling by day and often sleeping in the car.

Today, Fred Meyer of California is among the top six in the fireplace accessory industry, averaging sales of 100,000 screens a year and 60,000 accessories. And Fred Meyer is presumably a moderately wealthy man.

A lot of his employees have been with him the whole 20 years. And it's out in the plant where a visitor finds more evidence that people don't have to claw to accomplish something.

The tour is led by the plant production chief, Hank Morioko, a Japanese who's been with Meyer for 15 years. "When I got married, he bought champagne for all my guests. Four hundred people." He's a great guy." Morioko notes that all employees are members of Local 128 of the Metal Polishers union, but there's never been a strike or even an arbitration case

The employee names roll by. Gus Gimarelli and Joe Rio and Robert Rios and Ernesto Fernandez. A Chicano in charge of this. A Black in charge of that. An Oriental running something else. And there's Millie Robinson, 21 years with the company, boss of the paint department

At big corporations they hire labor experts who go around hanging labels like "fully integrated work force" on such situations and try to figure out how they come into being.

At the little factory on Potrero St., nobody worries about it. "We never set out to hire any particular kind of people," says Fred Meyer. "They all just kind of wandered in here."

EUGE POETA

HON. LEE METCALF

OF MONTANA

IN THE SENATE OF THE UNITED STATES

Wednesday, December 10, 1969

Mr. METCALF. Mr. President, Congressman PODELL of New York, on May 20, 1968, inserted in the CONGRESSIONAL RECORD the poem of our colleague, the senior Senator from Minnesota, GENE MCCARTHY, entitled "Three Bad Signs." This poem has now been awarded a prize by the National Endowment for the Arts. This award confirms Congressman PODELL'S evaluation of Senator MCCARTHY as one who "belongs in the front rank of American lyric poets."

As the Senator from Idaho, Mr. CHURCH, has said, there is no record of another Senator achieving this distinction. For most of us poetry is not our cup of tea.

Senators have written erudite tomes, economic studies, historical reminiscences, essays, doggerel, but never has a Senator earned a prize for poetry.

In achieving distinction as a genuine poet, Senator MCCARTHY can bask in the opinion of Oliver Wendell Holmes who said:

There was never a poet who had not the heart in the right place.

The poem, "Three Bad Signs" inserted in the RECORD by Congressman PODELL and the poem "Ares" called to our attention by Senator CHURCH, are genuine poetic accomplishments.

It used to be that poetry had to rhyme and scan. It was Dorothy Parker who declared:

FIGHTING WORDS

Say my love is easy had,
Say I'm bitten raw with pride,
Say I am too often sad—
Still behold me at your side.
Say I'm neither brave nor young,
Say I woo and coddle care.
Say the devil touched my tongue—
Still you have heart to wear.
But say my verses do not scan
And I get me another man!

The poetry of MCCARTHY is not tnat of the scanning and rhyming variety. It is the modern poetry of *T. S. Eliot*, E. E. Cummings, Marianne Moore, and others. It is of an excellence entitled to be considered with these paragons.

Therefore, I was disturbed that the Washington Star commented on MCCARTHY'S prize-winning poetry as follows:

POET MCCARTHY

The National Endowment for the Arts has awarded a $500 prize to Senator Eugene McCarthy for his poem, "Three Bad Signs." This confirms a long-held suspicion of ours that McCarthy is better at being a poet than he is at the other trades he's dabbled in, such as baseball and politics.

It has been reported that McCarthy, on being informed of his windfall, express the hope that politicians would now stop criticizing his poetry. That seems fair enough. Only those with some knowledge of poetry are properly qualified to comment on the work of a poet.

By the same token, it would seem reasonable to suggest that Poet McCarthy should stop sounding off on the work of professional politicians.

I wonder what test the Evening Star would put on professional politicians. GENE MCCARTHY has won five elections to Congress and two elections to the U.S. Senate. That is playing in the professional league for quite awhile. In addition, he has made a substantial showing in the presidential league. If not being professional means not winning a presidential nomination then there are few professional politicians. If being a professional means success in the highest professional challenge, then GENE MCCARTHY meets the test.