He dropped the program, he said, "with a combination of relief and frustration."

The Franvale Nursing Home has 26 beds for Medicare patients but Mr. Kelley said "at no time was there more than 50 per cent occupancy."

Another area nursing home, the Newfield House in Plymouth, is reported to be dropping Medicare. However, administrator Mrs. Elizabeth Longhi, would not confirm or deny the report.

According to many nursing home owners, Medicare is running into so much trouble because the actual cost of the program far exceeds the projected cost and HEW is now trying to economize.

So, according to Mr. Kelley HEW is attempting this economy by making ECF entrance requirements so strict that many doctors simply keep patients in hospitals.

Acute care facilities, he said, cost from $60 to $80 per day, while nursing home care costs from $20 to $30 per day.

Nursing homes "can provide nursing care at a fraction of what it costs a general hospital," Mr. Kelley added. "So, what's happening is that the economy drive is zeroing in on proprietary interests rather than on the real costs."

He likened the economy cut to a housewife trying to economize by limiting sugar purchases rather than meat.

Cornelius A. Bottomley, of Norwood, executive director of the Nursing Homes, agreed that there is trouble aplenty between nursing homes and Medicare.

"The public has bought a fantastic fraud," he said referring to Medicare. "The American public has bought Medicare and paid for it but they're not getting the benefits. There's no such thing as service in an ECF anymore."

The state public health department has verified that nursing homes are dropping out of the federal program. However, a spokesman, Dr. David Kinloch, director of medical care, said the public health department has not yet begun to worry about a shortage of beds.

He explained that 100 nursing homes primarily sought certification, and that from 25 to 30 additional homes have been certified since 1966. In January this year, there were 131 ECF's in the Commonwealth with a total of 8,761 beds.

Since that date, 13 have been certified, adding another 681 beds.

The Commonwealth has also lost 867 beds from the nursing homes that have dropped the certification.

Dr. Kinloch said they are not concerned because there may not be enough beds for Medicare patients but that public health is concerned about patient care in general.

Mr. Kelley summed the feelings of many nursing homes and public health spokesmen in concluding that, "in the final analysis, it's the patient who suffers."

PATRIOTISM A BAD WORD TO OEO

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Saturday, December 20, 1969

Mr. LANDGREBE. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

[From the Chicago (Ill.) Tribune, Dec. 20, 1969]

PATRIOTISM A BAD WORD TO OEO

(By Willard Edwards)

WASHINGTON, December 19.—The principal of the Church Rock, N.M., elementary school was staggered last Nov. 12 to receive a threatening letter from the government. It warned him that he was polluting the youthful minds entrusted to his care and might be the subject of legal action if he persisted in his "offensive" tactics.

The letter was signed by Stephen B. Elrick, an attorney employed at taxpayers' expense in the legal services section of the office of economic opportunity. He is one of 1,850 lawyers now on the federal payroll who provide "legal assistance" to poor people.

Claude Hinman, principal at the school, which has an enrollment of 99 per cent Indian children, learned that he had been guilty of the crime of stimulating patriotism in his charges. He had approved a program to give them "an awareness of the greatness of their country."

"They ought to have an awareness of the faults and errors of their country, as well," wrote Elrick. "It is especially appalling that Indian children are being forced to participate in this program, when it is their people who have been treated most shabbily of all by the United States."

Elrick expressed his horror at a statement by a Mrs. Stafford, a Negro teacher in the school, who had said: "We should indoctrinate every child with the idea of being loyal to his country."

That was a "sorry philosophy," Elrick declared, for a public school "which should be dedicated to the concept of . . . the presentation of all sides of disputed issues." He continued:

"I find it particularly offensive that you are apparently associating 'patriotism' with support of the war in Viet Nam, which is unquestionably the most controversial war of our time and, in the opinion of many, the most brutal and unjustified."

Elrick then turned his attention to the school bulletin board on which some child had printed "God Bless America."

"It is deplorable," he wrote, "for you to stimulate the expression of what is, in effect, a prayer in violation of the Supreme Court's ruling that public schools are to refrain from such activities.

"There is simply no need to offend the sensibilities of some persons by indirectly stimulating the establishment of the Christian [or Jewish] faith among a people who have traditionally held conflicting religious beliefs."

The letter concluded with an ultimatum. If "balance" was not restored to the school programs, "I shall take whatever steps I can to investigate the matter myself and, if necessary, institute legal proceedings."

Principal Hinman referred the letter to School Supt. W. B. Fitzsimmons, who appealed to Sen. Paul J. Fannin [R., Ariz.].

"This is both incredible and awesome," remarked Fannin. "Here we have an OEO staff member who apparently thinks that loyalty to one's country is a 'disputed issue.'"

He fired off a letter Dec. 8 to Donald Rumsfeld, OEO director, suggesting that he inquire into "the continued usefulness of Mr. Elrick in this or any other program in which he is paid by tax money."

Such incidents, he noted, had caused the Senate to approve an amendment to the OEO authorization bill, sponsored by Sen. George Murphy [R., Cal.], giving governors of states control over legal programs for the poor. The House balked and the amendment died in conference.

Rumsfeld, who has been busy fighting for the life of his agency, hasn't yet replied, but Fannin is confident that the former Illinois congressman will join him in agreement that the teaching of loyalty to the United States is not taboo in American schools.

SENATE—*Monday, December 22, 1969*

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

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

Eternal Father, we thank Thee for this holy season and the reality of "Immanuel—God with us." Grant that we may know the fullness of Thy presence not only at worship but at work. Teach us the invincibility of goodness and that love is the strongest force in the universe—stronger than hate, stronger than evil, stronger than death—and that the blessed life which began in Bethlehem nearly 2,000 years ago is the image of the eternal love. So prepare us to keep Christmas. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Saturday, December 20, 1969, be dispensed with.

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

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

The 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.

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.

NOMINATIONS PLACED ON THE SECRETARY'S DESK—THE COAST GUARD

The bill clerk proceeded to read sundry nominations in the Coast Guard which had been placed on the Secretary's desk.

The ACTING PRESIDENT pro tem-

pore. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

THE ROAD TO SONGMY

Mr. MANSFIELD. Mr. President, in the issue of Saturday Review of December 20, 1969, appears an editorial entitled "The Road to Songmy," by Norman Cousins.

There is a great deal of food for thought in this editorial, and I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

THE ROAD TO SONGMY

"I sent them a good boy," said Mrs. Anthony Meadlo, "and they sent home a murderer." The name of Paul David Meadlo, of New Goshen, Indiana, has figured in the reports of the slaughter of more than 100 Vietnamese civilians (some accounts put the number above 350) by American soldiers at a village named Songmy.

Where did the journey to Songmy begin? Did it begin only after Paul David Meadlo arrived in Vietnam? Or did it start far, far back—back to the first time Paul Meadlo played the game of killing Indians, or cheered when Western movies showed Indians being driven off cliffs? Even in some schoolbooks, the Indians were fit subjects for humiliation and sudden death. They were something less than fully human, and their pain levied no claim on the compassion of children—or even adults.

Long before Paul Meadlo ever saw a Vietnamese, he learned that people of yellow skin were undesirable and therefore inferior. He learned in his history class about the Oriental Exclusion Act, the meaning of which was that people from Asia were less acceptable in the United States than people from Europe. He learned very little about the culture of Asian people but he learned to associate them with all sorts of sinister behavior.

The road to Songmy is long and wide. It is littered with children's toys—toy machine guns, toy flame-throwers, toy dive bombers, toy atom bombs. Standing at the side of of the road are parents watching approvingly as the children turn their murderous playthings on one another. The parents tell themselves that this is what children do in the act of growing up. But the act of growing up is an enlargement of, and not a retreat from, the games that children play. And so the subconscious is smudged at an early age by bloody stains that never fully disappear.

Paul David Meadlo grew up in a little town 10,000 miles away from Vietnam; but the kind of things that were to happen in Songmy came springing to life in his living room where there was an electronic box called television. Hour after hour, the box would be lit up by pictures showing people whose faces were smashed and pulverized, but it was part of an endless and casual routine. Where did the desensitization to human pain and the preciousness of life begin? Did it begin at formal indoctrination sessions in Vietnam, or at point-blank range in front of an electronic tube, spurting its messages about the cheapness of life.

And when the court-martial is held, who will be on trial? Will it be only the soldiers who were face-to-face with the civilians they say they were ordered to kill? The Army now says soldiers should not obey commands that are senseless and inhuman. What wellsprings of sense and humaneness are to be found in the orders to destroy *whole* villages from the air? Is a man in a plane exempt from wrongdoing solely because he does not see the faces of the women and children whose bodies will be shattered by the explosives he rains on them from the sky? How does one define a legitimate victim of war? What of a frightened mother and her baby who take refuge in a tunnel and are cremated alive by a soldier with a flamethrower? Does the darkness of the tunnel make them proper candidates for death?

Will the trial summon every American officer who has applied contemptuous terms like "gook," "dink," and "slope" to the Vietnamese people—North and South? Will it ask whether these officers have ever understood the ease and rapidity with which people who are deprived of respect as humans tend to be regarded as sub-human? Have these officers ever comprehended the connection between the casual violence of the tongue and the absolute violence of the trigger finger?

Will the men who conceived and authorized the search-and-destroy missions be on trial? Search-and-destroy quickly became destroy first and search afterward. How far away from unauthorized massacre is authorized search-and-destroy?

Will the trial ask why it was that the United States, which said it was going into Vietnam to insure self-determination, called off the countrywide free elections provided for in the 1954 Geneva Agreements—after which call-off came not just Vietcong terror but the prodigious growth of the National Liberation Front?

Will the trial ask what role the United States played in the assassination of President Ngo Dinh Diem? Will it ask how it was that political killing and subversion, which had always been regarded as despicable actions perpetrated by our enemies, should have been made into practices acceptable to the United States?

Will there be no one at the trial to explain why the negotiations at Paris were deadlocked over the shape of the table for six weeks—during which time five thousand Americans and Vietnamese were killed? If the men at Paris had been able in advance to see the faces of those who were to die, would this have made them responsible for the dead?

There is a road back from Songmy and Vietnam. It is being traveled today by the American soldiers who gave their Thanksgiving dinners and regular rations to Vietnamese, and who in deed and attitude have made themselves exemplars of a creatively humane presence. There are doctors and teachers and volunteers on this road who comprehend the possibilities and power of regeneration. But their numbers need to be swelled to bursting in order to begin to meet the need.

It is a long road back, not just for the soldiers who were there but for all of us who showed them the way to Songmy.

—N.C.

THE MATTER OF PRIORITIES

Mr. DOLE. Mr. President, in the closing hours of a congressional session, voices often become loud and tempers are short. Often, because of the strain, intemperate and inaccurate statements are made. Reviewing news accounts of the issues facing the Congress, I find we are again faced with inaccurate and intemperate remarks.

The major issue appears to be one of national priorities, at least that is the way the Democratic national chairman described it. On the Senate floor, Saturday, the junior Senator from Minnesota inferred that the President cared more about military spending while the Democrats "choose to apply more money to human needs." Mr. President, I am wholly in agreement with my colleagues: Congress and the President must establish national priorities. However, I find that the same individuals who appear to be looking for campaign issues for 1970 have made few affirmative contributions toward establishing those priorities. Rather than cooperate with the President, we find they have chosen to obstruct his programs. Rather than come to grips with inflation, they chose to embarrass the President by a game of one-upmanship on the tax bill. Rather than offer new initiatives, they choose to stand by the programs of the past, the same programs which will not meet the demands of the 1970's. Rather than approach our great problems with a sense of bipartisan cooperation, we see the Democratic Party seeking to blame the President for all that he inherited from them on January 20.

Members of the Democratic Party have found the Senators in error. Charles L. Schultze, Budget Director under President Johnson, in a letter to the Washington Post, chided his Democratic colleagues for talking of new priorities and cutting taxes. Mr. Schultze exclaimed that "when the chips were down, those who talked about priorities for pollution control and education and an end to hunger voted for a different set of priorities—for beer and cosmetics and whitewall tires."

Mr. President, I noticed a column relating to this subject in the Washington Post yesterday by Alice M. Rivlin, former Assistant Secretary of HEW for Planning and Education. I am hopeful some of her experience will be helpful to my colleagues on the other side of the aisle.

I ask unanimous consent that this article and the letter from Mr. Schultze be printed in the RECORD at this point.

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

WHAT'S HAPPENED TO THE "GOOD GUYS"?

(By Alice M. Rivlin)

It is hard to believe what is happening on Capitol Hill. The "good guys" appear to have gone berserk.

The "good guys" are those who really care about poverty and social injustice. They are the core of that shifting coalition—mostly Democrats, but also Republicans—that fought so hard for Medicare, Medicaid, for federal aid to poverty schools, for Headstart, VISTA and the Teachers Corps. They are the guys in the white hats whom people were counting on for leadership in attacking the massive problems of poverty, racial inequality and urban blight.

Where are the "good guys" when they are

needed most? Incredibly, they are passing a tax bill that will cripple efforts to solve social problems for a decade to come.

It would not be so bad if so many dollars were rolling into the federal treasury that we could afford to give some away and still have plenty for priority programs. But even if the economy prospers and war expenditures are cut back; normal growth in existing federal programs will use up most of the expected increase in federal revenues. There may not be as much as 20 billion additional dollars available in 1975 for all new federal initiatives. *The tax bill would reduce this relatively small increment by a third.*

These legislators are not only behaving irresponsibly on taxes. They are also adding scarce dollars to ineffective programs that meet no one's test of high social usefulness. Take the Office of Education budget. The office has inherited from the sputnik scare of the late 1950s a bunch of categorical school aid programs which provide funds for science equipment, visual aids, library materials and other special objects.

An even bigger item in the Office of Education budget is the so-called "impacted areas" program which channels money to school districts which have a lot of children of federal employees. This hit-or-miss program is a poor way to improve the effectiveness of American education.

The Johnson administration's last budget, for fiscal year 1970, attempted to reorient the Office of Education toward more effective programs by cutting the categorical funds and impacted area aid. The Nixon revision of this budget went even further in the same direction. It cut the categorical aids and impacted areas even more, adding money for experiments to find more effective teaching methods. The Congress (including most of the liberals) slashed the experiments and added a billion dollars to the Office of Education appropriations. But they did not add much to high priority programs. On the contrary, most of the billion was added to the categorical aids and impacted areas.

The dilemma of the "good guys" comes from three principal factors. First, real progress on social problems is going to be expensive and everybody knows it.

Second, there are no obvious prescriptions for social ills. Disillusionment has set in with the underfinanced efforts of the Kennedy-Johnson years. Oversold programs are now being overattacked—never mind that the high hopes were unrealistic to begin with.

No one should have expected that putting children into a hastily organized nursery school for six weeks in the summer would revolutionize their lives. Because it did not, some are now saying that Headstart was a failure. No one should have expected that spending a little over $100 per poor child under the Elementary and Secondary Education Act would alter entrenched bureaucracies or change the destructive attitudes of teachers toward poor children. Because it did not, some are now saying that education is hopeless and poor children cannot learn. All this—not to mention those few doctors profiteering from Medicaid—has given the sponsors of these programs a bad case of the jitters.

Third, and perhaps most devastating, the Nixon administration's domestic program has not been nearly as bad as some of the liberals feared—or hoped. Not that the administration has taken much action; it has certainly not provided leadership in changing national priorities. But its few actions on the domestic front are hard to fault.

The administration budget for fiscal 1970 did not slash Great Society programs, as some had expected it would. In fact, it moved most of them forward about as fast as they had been moving in the last two years of the Johnson administration. The Nixon administration's welfare reform, while far from perfect and much too small, is the first really progressive step in this difficult area in many years.

A President who is inching in the right direction is a poor target for the liberals, especially when moving faster would take more money than anyone thinks there is. So the "good guys," lacking a positive program of their own and reluctant to accept the administration's few good initiatives, are venting their frustration by lashing out at the administration in irrational ways such as reducing taxes and adding to ineffective programs.

What's to be done? Clearly the "good guys" need to work together on a positive program which is both constructive and realistic. Pie-in-the-sky bills like the full Opportunity Act sponsored by a group of liberal senators are not much help. What is needed is a well-constructed, realistically phased program which can serve as a justification for not cutting taxes and not wasting money on defective programs. It does not really matter what this program is. It could be urban education or health care for children or even clean water. The main thing is for the "good guys" to stop flailing around and get down to serious work on some important program they can call their own.

Tax "Greek Tragedy"

A Greek tragedy is coming to a close on Capitol Hill. As the House-Senate conference on the tax reform bill begins, all the attention is being focused on the issues of near term "fiscal responsibility" and on specific items of tax reform. Both liberals and conservatives, however, have joined in agreement that tax cuts must be the order of the day. They only disagree on exactly when and what kind. Undoubtedly, the conference will adopt some of the major tax cuts of both House and Senate bills. It will also postpone the revenue loss for several years, thus earning the label of "fiscal responsibility." But both the House and the Senate bills involve very large losses in revenue in later years. The House bill will cost over $7 billion in revenues by fiscal 1974; the Senate bill more. If the conference adopts tax relief measures from both bills, the ultimate revenue loss could be even larger.

Cutting taxes by this amount, while postponing the effect of the cuts for several years, is a perfectly rational strategy for those dedicated to the prevention of additional growth in federal spending. Yet why are the liberals not only following this strategy but leading the parade? There is no lack of willingness to make speeches about the urban crisis and the campaign to end hunger. There is no lack of votes to push through added appropriations for pollution control and aid to education. There is much brave talk about "new priorities." But with large tax cuts enacted, there simply will not be the revenues available to pay for these new priorities. When the chips were down on tax cuts, those who *talked* about priorities for pollution control and education and an end to hunger *voted* for a different set of priorities—for beer and cosmetics and whitewall tires. In the entire Senate, there were only two Democratic votes against the bill, and those came from Southern conservatives.

John Gardner recently made a moving plea for national leadership. The current tax tragedy is evidence both of how much we need it and of how little his plea was heeded.

CHARLES L. SCHULTZE.

WASHINGTON.

ENFORCEMENT OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in a recent report, the Section of Individual Rights and Responsibilities of the American Bar Association recommended that the House of Delegates of the ABA approve and adopt a resolution urging the United States to ratify the 1948 Human Rights Convention on Genocide. This is most significant, because this organization has not favored the ratification of the genocide treaties in the past, and this action of the American Bar Association is most encouraging to those of us who have been disturbed about the fact that the genocide treaty has been waiting for ratification on the Committee on Foreign Relations for approximately 20 years.

Contained in this report was an analysis of the provisions of the Genocide Convention for enforcement. Enforcement is, obviously, the essential provision in the convention. The analysis by the ABA section stated:

> Enforcement of the prohibition of genocide is plainly not an easy problem. Obviously the main thrust of the Convention is not intended as a policing measure, but rather as a declaration and warning, and, as noted earlier, as a filling in of the gap that, rightly or wrongly, was found at Nurnberg. Nevertheless, the Genocide Convention was designed to be more than a mere statement, and it makes two provisions for enforcement. First, it provides (in Article V) that all contracting parties must undertake to enact the legislation necessary to punish persons guilty of the crimes enumerated in the first three articles. Second, it provides (in Article VIII) that any contracting party can call upon the competent organs of the United Nations—including the General Assembly and the Security Council—to take such action as they consider appropriate for the prevention or suppression of genocide or the crimes associated with it. Thus, the Convention contemplates both that states shall prevent or punish in their own territory acts by individuals prohibited by the Convention and that the international legal system—within its various limitations—shall prevent or punish acts by (or in complicity with) states, wherever they may be committed. In addition, the Convention contains in Article IX an agreement by all Contracting States to submit disputes about the Convention to the International Court of Justice.

Enforcement of the Genocide Convention, then, must be seen in relation to both individuals and states. Individuals cannot hide behind the actions of their governments and states are to be held accountable for the actions of their governments. The ABA Section on Individual Rights and Responsibilities, in its recommendation to the full ABA House of Delegates, stated:

> Thus, while no one can be certain of the effectiveness of any given documents, the Genocide Convention goes far to make genocide unattractive even for those who would not shrink from it on moral grounds.

Calling genocide "unattractive" is certainly the understatement of the year. Of all the crimes which man has perpetrated, none is more horrible, or more detestible, than genocide, which is, as we know, the planned premeditated elimination of an entire race or group by murder.

The Senate, I am sure, has no doubt on this score. Yet, somehow, it has had this convention before it for 20 years, without ratifying it. Mr. President, we cannot delay any longer. Let us ratify the Genocide Convention—now—and ally ourselves with those nations which

have unequivocally gone on record outlawing genocide. Mr. President, we cannot afford not to.

ANNUAL REPORT OF THE REPUBLICAN LEADER FOR THE FIRST SESSION OF THE 91ST CONGRESS (S. DOC. NO. 91–50)

Mr. SCOTT. Mr. President, I ask unanimous consent to have printed my annual report of the minority leader for the first session of the 91st Congress, entitled "All Things Are Changing, and We Are Changing With Them."

This report in the past, as we all recall, was made by the late Senator Dirksen. At the opening it contains a tribute to Senator Dirksen, and I acknowledge my great debt to the leadership provided by the assistant floor leader, Senator GRIFFIN; the chairman of the conference, Senator SMITH of Maine; the chairman of the policy committee, Senator ALLOTT; the secretary of the conference, Senator YOUNG of North Dakota; and my admiration for and my gratitude to our majority leader, Senator MANSFIELD. His tact, legislative diplomacy, and complete candor have contributed no end to the amicably competitive relationship that should exist between majority and minority in a legislative body such as the Senate.

The report then takes up the inheritance of this administration, the political picture, the transition, the state of the Treasury, the chief task of the administration, which is peace, the draft changes, the squeeze of the economy, inflation, Congress and the Presidency, the record of the Senate in this first session, with certain tables and a summary of other problems, reference to the tax bill, a section on the work remaining to be done, and a conclusion as follows:

CONCLUSION

Will the pace and content of legislative action be better next year? Clearly the temper of this Age of Aquarius calls for less bureaucratic omphaloskepsis; all things are changing, and we are changing with them.

Omnia mutantur, et nos mutamur in illis. . . .

Mr. President, I ask unanimous consent that the report may be printed as a Senate document.

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

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

Mr. SCOTT. I yield.

Mr. MANSFIELD. I can see some interesting days ahead, especially when one has to compete with an oriental scholar on the other side of the aisle. I am sure his report will be most interesting. I am certain the Democrats will get full credit for what they have done and that they will be brought to account for what they have not done.

At the appropriate time I shall have printed a similar statement. I assure the Senator that the words will be more decipherable than ones describing a period of thought. In describing that period of thought one should look at one's navel so one could achieve greater wisdom as a result.

Mr. SCOTT. May I say that we look forward with interest to the rejoinder which I am sure will be in the form of an apologia. The minority leader sought not to have there appear in the report anything oriental. I have sought to keep ours Byzantine and occidental since we occidentals are sensitive to any loss of face. Therefore, rather than the oriental I have concluded with a Greek word, courtesy of the policy committee, and a Latin phrase, courtesy of myself.

Mr. MANSFIELD. I will not be Machiavellian in what I have to say, but sticking to the oriental, I will say, "Ding Hao."

Mr. SCOTT. Ding Hao—and a merry Christmas to you.

WAIVER OF CALL OF CALENDAR

Mr. KENNEDY. Mr. President, I ask unanimous consent to waive the call of the calendar under rule VIII.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of measures on the calendar, beginning with Calendar No. 615 and continuing up to and including Calendar No. 621.

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

DISTRICT OF COLUMBIA JUVENILE CODE

The Senate proceeded to consider the bill (S. 2981) to revise the laws of the District of Columbia on juvenile court proceedings which had been reported from the Committee on the District of Columbia with an amendment, strike out all after the enacting clause and insert:

That the analysis of title 16 of the District of Columbia Code is amended by substituting "23. Family Division Proceedings" for "23. Juvenile Court Proceedings".

SEC. 2. The heading of chapter 23 of title 16 of the District of Columbia Code is amended by substituting "FAMILY DIVISION PROCEEDINGS" for "JUVENILE COURT PROCEEDINGS".

SEC. 3. The analysis of subchapter I of chapter 23 of title 16 of the District of Columbia Code is amended to read as follows:

"Subchapter I.—Proceedings Regarding Delinquency, Neglect, or Need of Supervision

"Sec.
"16–2301. Definitions.
"16–2302. Right to counsel.
"16–2303. Petition; contents; amendment.
"16–2304. Service of summons and petition.
"16–2305. Initial appearance.
"16–2306. Taking into custody.
"16–2307. Criteria for detaining children.
"16–2308. Release or delivery to Family Division.
"16–2309. Detention or shelter care hearing; intermediate disposition.
"16–2310. Place of detention or shelter.
"16–2311. Consent decree.
"16–2312. Physical and mental examinations.
"16–2313. Conduct of hearings.
"16–2314. Hearings; findings; dismissal.
"16–2315. Predisposition study and report.
"16–2316. Disposition of child who is neglected, delinquent, or in need of supervision.
"16–2317. Disposition of mentally ill or substantially retarded child.
"16–2318. Limitation of time on dispositional orders.
"16–2319. Modification, termination of orders.
"16–2320. Probation revocation; disposition.
"16–2321. Support of committed child.
"16–2322. Court costs and expenses.
"16–2323. Interlocutory appeals.
"16–2324. Finality of judgments; appeals; transcripts.
"16–2325. Additional powers of the Director of Social Services.
"16–2326. Order of adjudication noncriminal.
"16–2327. Emergency medical treatment.
"16–2328. Time limitations.".

SEC. 4. Subchapter I of chapter 23 of title 16 of the District of Columbia Code is amended to read as follows:

"Subchapter I.—Proceedings Regarding Delinquency, Neglect, or Need of Supervision

"§ 16–2301. Definitions

"As used in this chapter—

"(1) 'Division' means the Family Division of the Superior Court of the District of Columbia.

"(2) 'Judge' means a judge of the Family Division of the Superior Court.

"(3) 'Child' means an individual who is under eighteen years of age, except that the term 'child' does not include an individual who is:

"(A) sixteen years of age or older,

"(i) who, under circumstances where a motion could have been filed pursuant to subsection (a) of section 11–1104 of this Code requesting transfer for criminal prosecution, has previously been found delinquent or been the subject of a consent decree entered after the filing of a delinquency petition, and

"(ii) who is charged by the United States Attorney with murder, manslaughter, rape, mayhem, arson, kidnaping, burglary, robbery, any assault with intent to commit any of the above offenses, or assault with a dangerous weapon; or

"(B) sixteen years of age or older and who is charged with a traffic offense.

Jurisdiction over an individual described in (A) shall not be affected by a subsequent plea or verdict as to any lesser included offense, nor by the fact that such individual is charged jointly with an offense not enumerated in (A) (ii) but based upon the same acts or transaction.

"For purposes of this subchapter, the term 'child' also includes an individual described in (A) or (B) who is under the age of twenty-one and charged with an offense committed prior to the age of sixteen; or an individual not described in (A) who is under the age of twenty-one and charged with a delinquent act committed prior to the age of eighteen.

"(4) 'Minor' means an individual who is under the age of twenty-one years.

"(5) 'Adult' means an individual who is twenty-one years of age or older.

"(6) 'Delinquent child' means a child who has been found to have committed a delinquent act and to be in need of care or rehabilitation.

"(7) 'Delinquent act' means an act designated as an offense under the law of the District of Columbia, or of a State if the act occurred in the State, or under Federal law. Traffic offenses shall not be deemed delinquent acts unless committed by an individual who is under the age of sixteen.

"(8) 'Person in need of supervision' means a child who—

(A) (i) being subject to compulsory school attendance, is habitually and without justification truant from school;

(ii) has committed an offense committable only by children; or

(iii) is habitually disobedient of the reasonable and lawful commands of his parent, guardian, or other custodian and is ungovernable; and

(B) is in need of care or rehabilitation.

"(9) 'Neglected child' means a child—

"(A) who has been abandoned or abused by his parent, guardian, or other custodian;

"(B) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his parent, guardian, or other custodian;

"(C) whose parent, guardian, or other custodian is unable to discharge his responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

"(D) who has been placed for care or adoption in violation of law;

except that the qualification stated in section 6 of the Act of November 6, 1966 (80 Stat. 1355, D.C. Code section 2–166) shall apply for purposes of this subchapter.

"(10) 'Mentally ill child' means a child who is mentally ill within the meaning of section 21–501 of this Code.

"(11) 'Substantially retarded child' means a child who is substantially retarded within the meaning of section 21–1101 of this Code.

"(12) 'Custodian' means a person or agency, other than a parent or legal guardian, to whom legal custody of a child has been given by court order and who is acting in loco parentis.

"(13) 'Detention or shelter care hearing' means a proceeding to determine whether there is probable cause to believe that allegations made in a petition are true and to determine whether a child should be placed or retained in detention or shelter care.

"(14) 'Detention' means the temporary secure custody of a child in facilities, designated by the Division, pending a final disposition of a petition.

"(15) 'Shelter care' means the temporary care of a child in physically unrestricting facilities, designated by the Division, pending a final disposition of a petition.

"(16) 'Factfindng hearing' means a hearing to determine whether the allegations of a petition are true.

"(17) 'Dispositional hearing' means a hearing, after a finding of fact, to determine—

"(A) whether the respondent in a delinquent or need of supervision case is in need of care or rehabilitation and, if so, what order of disposition should be made; or

"(B) what order of disposition should be made in a neglect case.

"(18) 'Probation' means a legal status created by court order following an adjudication of delinquency or need of supervision, whereby a minor is permitted to remain in his own home subject to supervision and return to the Division for violation of probation at any time during the period of probation.

"(19) 'Protective supervision' means a legal status created by Division order in neglect cases whereby a minor is permitted to remain in his home under supervision, subject to return to the Division during the period of protective supervision.

"(20) 'Guardianship of the person of a minor' means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor, and to be concerned with his general welfare. It includes (but is not limited to)—

"(A) authority to consent to marriage, enlistment in the Armed Forces, major medical, surgical, or psychiatric treatment; to represent the minor in legal actions; and to make other decisions concerning the minor of substantive legal significance;

"(B) the authority and duty of reasonable visitation (except as limited by court order);

"(C) the rights and responsibility of legal custody when guardianship of the person is exercised by the natural or adoptive parent (except where legal custody has been vested in another person or an agency or institution);

"(D) the authority to exercise residual parental rights and responsibilities when the rights of his parents or only living parent have been judicially terminated or when both parents are dead.

"(21) 'Legal custody' means a legal status created by court order which vests in a custodian the right to have physical custody of a minor and to determine where and with whom he shall live; the right and duty to protect, train, and discipline the minor; and the responsibility to provide him with food, shelter, education, and ordinary medical care. The rights and responsibilities of legal custody are subject to the rights and responsibilities of the guardian of the person of the minor and any residual parental rights and responsibilities.

"(22) 'Residual parental rights and responsibilities' means those rights and responsibilities remaining with the parent after transfer of legal custody or guardianship of the person, including (but not limited to) the right of visitation, consent to adoption, and determination of religious affiliation and the responsibility for support.

"§ 16–2302. Right to counsel

"(a) A child alleged to be delinquent or in need of supervision is entitled to be represented by counsel at all critical stages of Family Division proceedings, including the time of admission or denial of allegations in the petition and all subsequent stages. If the child and his parent, guardian, or custodian are financially unable to obtain adequate representation, the child shall be entitled to have counsel appointed for him in accordance with rules established by the Superior Court. In its discretion, the Division may appoint counsel for the child over the objection of the child, his parent, guardian, or other custodian.

"(b) When a child is alleged to be neglected, the parent, guardian, or custodian of the child named in the petition is entitled to be represented by counsel at all critical stages of the Family Division proceedings and, if financially unable to obtain adequate representation, to have counsel appointed in accordance with rules established by the Superior Court. The Division shall, where appropriate, appoint separate counsel to represent the child, as provided in section 16–918 of this Code.

"§ 16–2303. Petition; contents; amendment

"(a) Complaints alleging delinquency, need of supervision, or neglect shall be referred to the Director of Social Services who shall conduct a preliminary inquiry to determine whether the best interests of the child or the public require that a petition be filed. If judicial action appears warranted, under criteria established by the Superior Court, the Director shall recommend that a petition be filed. If the Director decides not to recommend the filing of a petition, the complainant in a delinquency or neglect case shall have a right to have said decision reviewed by the Corporation Counsel, and the Director of Social Services shall notify the complainant of such right of review.

"(b) Petitions initiating Division action may be signed by any person who has knowledge of the facts alleged or, being informed of them, believes they are true, except that petitions alleging need of supervision may only be signed by the Director of Social Services, a representative of a public agency or a nongovernmental agency licensed and authorized to care for children, a representative of a public or private agency providing social service for families, a school official, or a law enforcement officer. Petitions shall be verified upon information or belief.

"(c) All petitions shall be prepared by the Corporation Counsel after an inquiry into the facts and a determination of the legal basis for the petition. If the Director of Social Services has refused to recommend the filing of a delinquency or neglect petition, the Corporation Counsel, on request of the complainant, shall review the facts presented and shall prepare and file a petition if he believes such action is necessary to protect the community or the interests of the child. Any decision of the Corporation Counsel on whether to file a petition shall be final.

"d) Petitions shall be filed by the Corporation Counsel within five days after a complaint has been referred to the Director of Social Services, except as otherwise provided in section 16–2309. A petition shall set forth plainly and concisely the facts which bring the child within the provisions of subsection (12) of section 11–1101 of this Code including, in delinquency cases, the specific statute or ordinance on which the charge is based; and if delinquency or need of supervision is alleged, a statement that the child appears to be in need of care or rehabilitation. The petition shall contain such other facts and information as may be required by rules of the Superior Court.

"(e) A petition may be amended by leave of the Division on motion of the Corporation Counsel or counsel for the child, at any time prior to the conclusion of the factfinding hearing. The Division shall grant the Corporation Counsel, the child and his parent, guardian, or custodian notice of the amendment and, where necessary, additional time to prepare.

"(f) The Government of the District of Columbia shall be a party to all proceedings under this subchapter.

"§ 16–2304. Service of summons and petition

"(a) When a petition is filed, the Division shall set a time for initial appearance and shall direct the issuance of summonses. If delinquency or need of supervision is alleged, a summons, together with a copy of the petition, shall be served upon the child and upon his spouse (if any) and his parent, guardian, or other custodian. If neglect is alleged, the summons, together with a copy of the petition, shall be served on the parent, guardian, or other custodian of the child named in the petition. Where appropriate to the proper disposition of the case, the Division may direct service of summonses upon other persons. A summons issued pursuant to this section shall advise the parties of the right to counsel as provided in section 16–2302.

"(b) Upon request of the Corporation Counsel, the Division may endorse upon the summons an order directing the parent, guardian, or other custodian of the child to appear personally at the hearing and directing the person having physical custody or control of the child to bring the child to the hearing.

"(c) If it appears, from information presented to the Division, that there are grounds to take the child into custody as provided in section 16–2306, or that the child may leave or be removed from the jurisdiction of the Superior Court or will not be brought to the hearing, notwithstanding service of the summons, the Division may endorse upon the summons an order that the officer serving the summons shall at once take the child into custody. If the child is taken into custody under this section, the provisions of section 16–2306 through 16–2308 shall apply.

"(d) If, at the time the petition is filed, a detention or shelter care hearing is required by section 16–2309, this section shall not apply.

"§ 16–2305. Initial appearance

"At the time set forth in the summons, but in no case later than five days after a petition has been filed, the child named in a delinquency or need of supervision petition or the parent, guardian, or custodian of a child named in a neglect petition shall ap-

pear before a judge of the Division and shall be advised of the contents of the petition and of the right to counsel as provided in section 16–2302. At that time the child, or in neglect cases the parent, guardian, or custodian, may admit or deny the allegations in the petition, but it shall not be necessary at the initial appearance for the Corporation Counsel to establish probable cause to believe that the allegations in the petition are true. At the initial appearance, the judge may set the time for the factfinding hearing or continue the matter until a later time. This section shall not apply in any case where, prior to or at the time of the initial appearance, a detention or shelter care hearing required by section 16–2309.

"§ 16–2306. Taking into custody

"A child may be taken into custody—

"(1) pursuant to order of the Division under section 16–2304 or 16–2308;

"(2) by a law enforcement officer when he has reasonable grounds to believe that the child has committed a delinquent act;

"(3) by a law enforcement officer when he has reasonable grounds to believe that the child is suffering from illness or injury or is in immediate danger from his surroundings, and that his removal from his surroundings is necessary; or

"(4) by a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parent, guardian, or other custodian.

"§ 16–2307. Criteria for detaining children

"(a) A child shall not be placed in detention prior to a factfinding hearing or a dispositional hearing unless he is alleged to be delinquent or in need of supervision and unless it appears from available information that detention is required:

"(1) to protect the person or property of others or of the child, or

"(2) to secure the child's presence at the next court hearing.

"(b) A child shall not be placed in shelter care prior to a factfinding hearing or a dispositional hearing unless it appears from available information that shelter care is required:

"(1) to protect the person of the child, or

"(2) because the child has no parent, guardian, or custodian or other person or agency able to provide supervision and care for him, and the child appears unable to care for himself.

"(c) The criteria for detention and shelter care provided in this section, as implemented by rules of the Superior Court, shall govern the decisions of all persons responsible for determining whether detention or shelter care is warranted prior to any Family Division hearing.

"§ 16–2308. Release or delivery to Family Division

"(a) A person taking a child into custody shall with all reasonable speed:

"(1) where the child's placement in detention or shelter care does not appear to be required under section 16–2307, release the child to his parent, guardian, or custodian upon a promise to bring the child before the Division when requested by the Division; or

"(2) bring the child before the Director of Social Services, or to a medical facility if the child appears to require prompt treatment or to require prompt diagnosis for medical or evidentiary purposes. Any person taking a child into custody shall give prompt notice to the Corporation Counsel and to the parent, guardian, or custodian (if known) together with the reasons for custody.

"(b) When a child is brought before the Director of Social Services, the Director shall in all cases review the need for detention or shelter care prior to the admission of the child to the place of detention or shelter care. The child shall be released to his parent, guardian, or custodian unless the Director of Social Services finds that detention or shelter care is required under section 16–2307. If the child is not released, the Director of Social Services shall advise him of the right to counsel provided in section 16–2302.

"(c) If a parent, guardian, or custodian fails, when requested, to bring the child to the Division as provided in subsection (a)(1), the Division may issue a warrant directing that the child be taken into custody and brought before the Division.

"§ 16–2309. Detention or shelter care hearing; intermediate disposition

"(a) Unless a child is released as provided in section 16–2308, in all cases when a child is taken into custody:

"(1) a detention or shelter care hearing shall be held not later than the next day (excluding Sundays) after the child has been taken into custody or transferred from another court as provided by section 11–1103 of this Code; and

"(2) a petition shall be filed prior to the detention or shelter care hearing.

For good cause shown, the Division may postpone, for a period not to exceed five days, the determination of probable cause. On motion by or on behalf of the child, a child in custody shall be released from custody if his detention hearing or any part thereof is not commenced within the time set forth herein.

"(b) Prompt notice of the detention or shelter care hearing shall be given, if delinquency or need of supervision is alleged, to the child, and to his spouse (if any), parent, guardian, or custodian if he can be found, or, if neglect is alleged, to the child, and to the parent, guardian, or custodian named in the petition if he can be found. Counsel for the child, and in neglect cases also counsel for the parent, guardian, or custodian, shall be entitled to a copy of the petition prior to the hearing.

"(c) At the commencement of the hearing the judge shall advise the parties as provided in section 16–2305 and appoint counsel if required. He shall afford the child, or in neglect cases the parent, guardian, or custodian, an opportunity to admit or deny the allegations in the petition, where said allegations have not previously been admitted or denied pursuant to section 16–2305. He shall then hear evidence presented by the Corporation Counsel to determine whether there is probable cause to believe that the allegations in the petition are true, and to determine whether the child should be placed or retained in detention or shelter care. The child and his parent, guardian, or custodian may present evidence on the issues and be heard in their own behalf.

"(d) At the conclusion of the hearing, the judge shall order the child released, or shall order detention or shelter care setting forth in writing his reasons therefor. If a child is released, the judge may impose one or more of the following conditions:

"(1) placement of the child in the custody of a parent, guardian, or custodian, or under supervision of a person or organization agreeing to supervise him;

"(2) placement of restrictions on the child's travel, activities, or place of abode during the period of release; or

"(3) any other condition reasonably necessary to assure the appearance of the child at a factfinding hearing or his protection from harm, including a requirement that the child return to the physical custody of the parent, guardian, or custodian after specified hours.

An order imposing conditions of release may be amended or modified by the Division at any time.

"(e) If a child is not released after hearing and the parent, guardian, or custodian did not receive notice thereof, the Division may, in the interest of justice, conduct a new hearing in accordance with rules prescribed by the Superior Court.

"(f) Over the objection of the child or his parent, guardian, or custodian, a judge who conducted a detention or shelter care hearing shall not conduct a factfinding hearing on the petition.

"§16–2310. Place of detention or shelter

"(a) A child in custody who is alleged to be neglected may be placed, at any time prior to disposition, only in the following places:

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for nondelinquent children; or

"(3) another facility for shelter care designated by the Division, including an appropriate facility operated by the District of Columbia.

No child alleged to be neglected may be placed in a facility described in paragraph (3) of subsection (b).

"(b) A child in custody who is alleged to be in need of supervision may be detained at any time prior to disposition only in the following places, and a child in custody who is alleged to be delinquent may be detained at any time prior to disposition in the following places or as provided in subsections (d) and (e):

"(1) a foster home;

"(2) a group home, youth shelter, or other appropriate home for allegedly delinquent children; or

"(3) a detention home for allegedly delinquent children or children alleged to be in need of supervision, designated or operated by the District of Columbia.

Unless the Division shall by order so authorize, no child may be detained in a facility as provided in paragraph (3) if it would result in his commingling with children who have been adjudicated delinquent and committed by order of the Family Division.

"(c) A child in detention or shelter care may be temporarily transferred to a medical facility for physical care and may, on order of the Division pursuant to section 16–2312, be temporarily transferred to a facility for mental examination or treatment.

"(d) Except as provided in subsection (e), no child under eighteen years of age may be detained in a jail or other facility for the detention of adults, unless transferred as provided in section 11–1104 of this Code. The appropriate official of a jail or other facility for the detention of adults shall inform the superior court immediately when a child under the age of eighteen years is received there (other than by transfer) and shall (1) deliver him to the Director of Social Services upon request, or (2) transfer him to a detention facility described in subsection (b)(3).

"(e) A child sixteen years of age or older who is alleged to be delinquent and who is in detention, whose conduct constitutes a menace to other children, and who cannot be controlled, may on order of the Division be transferred to a place of detention for adults, but shall be kept separate from adults.

"§ 16–2311. Consent decree

"(a) At any time after the filing of a delinquency or need of supervision petition and prior to adjudication at a factfinding hearing, the Division may, on motion of the Corporation Counsel or counsel for the child, suspend the proceedings and continue the child under supervision, without commitment, under terms and conditions established by rules of the Superior Court. Such a consent decree shall not be entered unless the child is represented by counsel and has been informed of the consequences of the decree nor shall it be entered over the objection of the child or of the Corporation Counsel.

"(b) A consent decree shall remain in force for six months unless the child is sooner discharged by the Director of Social Services. Upon application of the Director of Social Services or any agency supervising the child made prior to the expiration of the decree, a consent decree may, after notice and hear-

ing, be extended for not more than six additional months by order of the Division.

"(c) If prior to the expiration of the decree or discharge by the Director of Social Services, the child fails to fulfill the express conditions of the decree or a new delinquency or need of supervision petition is filed concerning the child, the original petition under which the decree was filed may, in the discretion of the Corporation Counsel following consultation with the Director of Social Services, be reinstated. The child shall thereafter be held accountable on the original petition as if the consent decree had never been entered.

"(d) If a child completes the period of continuance under supervision in accordance with the consents decree or is sooner discharged by the Director of Social Services, the Family Division shall dismiss the original petition.

"§ 16–2312. Physical and mental examinations

"(a) At any time following the filing of a petition, on motion of the Corporation Counsel or counsel for the child, or on its own motion, the Division may order a child to be examined to aid in determining his physical or mental condition.

"(b) Wherever possible examinations shall be conducted on an outpatient basis, but the Division may, if it deems necessary, commit the child to a suitable medical facility or institution for the purpose of examination. Commitment for examination shall be for a period of not more than thirty days unless the Division, for good cause shown, shall extend the commitment for additional periods of not more than thirty days. No more than two such extensions may be granted by the Division.

"(c) (1) If as a result of a mental examination the Division determines that a child alleged to be delinquent is incompetent to participate in proceedings under the petition by reason of mental illness or substantial retardation, it shall, except as provided in subsection (2), suspend further proceedings and the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 or chapter 11 of title 21 of this Code.

"(2) If a motion for transfer for criminal prosecution has been filed pursuant to section 11–1104 of this Code and the Division determines that a child alleged to be delinquent is incompetent to participate in the transfer proceedings by reason of mental illness, it shall suspend further proceedings and order the child confined to a suitable hospital or facility for the mentally ill until his competency is restored. If prior to the time the child reaches the age of 21 it appears that he will not regain his competency to participate in the proceedings, the Corporation Counsel shall initiate commitment proceedings pursuant to chapter 5 of title 21 of this Code.

"(3) If, as a result of mental examination, the Division determines that a child alleged to be neglected or in need of supervision is incompetent to participate in proceedings under the petition by reason of mental illness or substantial retardation, it shall suspend further proceedings. If proceedings are suspended, the Corporation Counsel may initiate commitment proceedings pursuant to chapter 5 or chapter 11 of title 21 of this Code.

"(d) The results of an examination under this section shall be admissible in a transfer hearing pursuant to section 11–1104 of this Code, in a dispositional hearing under this subchapter, or in a commitment proceeding under chapter 5 or chapter 11 of title 21 of this Code. The results of examination may be admitted into evidence at a factfinding hearing to aid the Division in determining a material allegation of the petition relating to the child's mental or physical condition, but not for the purpose of establishing a defense of non-involvement by reason of insanity.

"(e) Following an adjudication at a factfinding hearing that a child is neglected, the Division may order the mental or physical examination of the parent, guardian, or custodian of the child whose ability to care for the child is at issue. The results of the examination shall be admissible at a dispositional hearing on the petition alleging neglect.

"§ 16–2313. Conduct of hearings

"(a) The Division shall hear and adjudicate cases involving delinquency, need of supervision, and neglect without a jury. The Corporation Counsel shall present evidence in support of all petitions arising under this subchapter and otherwise represent the District of Columbia in all proceedings.

"(b) Evidence which is competent, material, and relevant shall be admissible at factfinding hearings. Evidence which is material and relevant shall be admissible at detention hearings, transfer hearings under section 11–1104 of this Code, and dispositional hearings.

"(c) All hearings and proceedings under this subchapter shall be recorded by appropriate means. Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings arising under this subchapter. Only persons necessary to the proceedings shall be admitted, but the Division may, pursuant to rule of the Superior Court, admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of his family involved in the proceedings.

"(d) If the Division finds that it is in the best interest of the child, it may temporarily exclude him from any proceeding except a factfinding hearing. If the petition alleges neglect, the child may also be temporarily excluded from a factfinding hearing. In any case, counsel for the child may not be excluded.

"§ 16–2314. Hearings; findings; dismissal

"(a) Except as otherwise provided by statute or court rule, all motions shall be heard at the time of the factfinding hearing.

"(b) After a factfinding hearing on the allegations in the petition, the Division shall make and file written findings, in all cases, as to the truth of the allegations, and, in neglect cases, also as to whether the child is neglected. If the Division finds that the allegations in a delinquency or need of supervision petition have not been established by proof beyond a reasonable doubt, or that the allegations in a neglect petition or the conclusion that the child is neglected have not been established by clear and convincing evidence, it shall dismiss the petition and order the child released from any detention, shelter care, or other restriction previously ordered.

"(c) If the petition alleging delinquency or need of supervision has not been dismissed, the Division shall commence to hear evidence as to whether the child is in need of care or rehabilitation, within fifteen days after the conclusion of the factfinding hearing when the child is in custody or within thirty days when the child is not in custody. Evidence which is material and relevant shall be admissible to determine need for care or rehabilitation even though not competent at a factfinding hearing. In the absence of evidence to the contrary, a finding of the commission of an act which would constitute a felony is sufficient to sustain a finding of need for care or rehabilitation.

"(d) If the Division finds on the basis of clear and convincing evidence that the child is in need of care or rehabilitation in a delinquency or need of supervision case, the Division shall proceed to make proper disposition of the case. If the Division finds that the child is not in need of care or rehabilitation, it shall terminate the proceedings and discharge the child from detention, shelter care, or other restriction previously ordered.

"(e) If the petition alleging neglect has not been dismissed, pursuant to subsection (b) or otherwise, the Division shall proceed to make proper disposition of the case, within fifteen days after the conclusion of the factfinding hearing when the child is in custody or within thirty days when the child is not in custody.

"(f) After any factfinding hearing, if the proceedings are not terminated, the Division shall review the need for detention or shelter care of the child.

"(g) The Division shall set the time of any dispositional hearing in accordance with this section and shall give prompt notice thereof, in delinquency and need of supervision cases, to the child, and to his spouse (if any), parent, guardian, or custodian, or, in neglect cases, to the child, and to the parent, guardian, or custodian named in the petition if he can be found.

"§ 16–2315. Predisposition study and report

"After a motion for transfer has been filed, or after the Division has made findings pursuant to subsection (b) of section 16–2314 sustaining the allegations of a petition and, in neglect cases, the conclusion that the child is neglected, the Division shall direct that a predisposition study and report to the Division be made by the Director of Social Services or a qualified agency designated by the Division, concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. Except in connection with a hearing on a transfer motion, no predisposition study or report shall be furnished to or considered by the Division prior to completion of the factfinding hearing.

"§ 16–2316. Disposition of child who is neglected, delinquent, or in need of supervision

"(a) If a child is found to be neglected, the Division may order any of the following dispositions which will be in the best interest of the child:

"(1) permit the child to remain with his parent, guardian, or other custodian, subject to such conditions and limitations as the Division may prescribe, including but not limited to medical, psychiatric, or other treatment at an appropriate facility on an outpatient basis;

"(2) place the child under protective supervision;

"(3) transfer legal custody to any of the following—

"(A) a public agency responsible for the care of neglected children;

"(B) a child-placing agency or other private organization or facility which is licensed or otherwise authorized by law and is designated by the Commissioner of the District of Columbia to receive and provide care for the child; or

"(C) a relative or other individual who is found by the Division to be qualified to receive and care for the child;

"(4) commitment of the child for medical, psychiatric, or other treatment at an appropriate facility on an in-patient basis if, at the dispositional hearing provided for in section 16–2314 of this subchapter, the Division finds that confinement is necessary to the treatment of the child. A child for whom medical, psychiatric, or other treatment is ordered may petition the Division for review of the order thirty days after treatment under the order has commenced, and, if, after a hearing for the purpose of such review the original order is affirmed, the child may petition for review thereafter every six months; or

"(5) make such other disposition as may be provided by law and as the Division deems to be in the best interests of the child and the community.

"(b) Unless a child found neglected is also found to be delinquent, he shall not be com-

mitted to or confined in an institution for delinquent children.

"(c) If a child is found to be delinquent or in need of supervision, the Division may order any of the following dispositions for his supervision, care, and rehabilitation:

"(1) any disposition authorized by subsection (a);

"(2) transfer of legal custody to a public agency for the care of delinquent children;

"(3) probation under such conditions and limitations as the Division may prescribe.

"(d) No child found in need of supervision, unless also found delinquent, shall be committed to or placed in an institution or facility for delinquent children; except that, if such child is again alleged to be in need of supervision and the court, after hearing, so finds, the Division may specify that such child be committed to or placed in an institution or facility for delinquent children.

"§ 16–2317. Disposition of mentally ill or substantially retarded child

"(a) If not previous examination has been made under section 16–2312 and the Division, after the factfinding but prior to the dispositional hearing, has reason to believe that a child is mentally ill or substantially retarded, it may order an examination as provided in section 16–2312.

"(b) If as a result of the examination the child is found to be mentally ill or substantially retarded, the Division shall, in lieu of other disposition, direct the appropriate authority to initiate commitment proceedings under chapter 5 or chapter 11 of title 21 of this Code. The Division may order the child detained in suitable facilities pending commitment proceedings.

"(c) If the examination does not indicate that commitment proceedings should be initiated or if the proceedings do not result in commitment, the Division shall proceed to disposition pursuant to this subchapter.

"§ 16–2318. Limitation of time on dispositional orders

"(a)(1) A disposition order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding two years. Unless the order specifies that release is permitted only by order of the Division, the department, agency, or institution may release the child at any time that it appears the purpose of the disposition order has been achieved.

"(2) An order vesting legal custody of a child in an individual other than his parent shall remain in force for two years unless sooner terminated by order of the Division.

"(3) An order of probation or a protective supervision order shall remain in force for a period not exceeding one year from the date entered, but the Director of Social Services or the agency providing supervision may terminate supervision at any time that it appears the purpose of the order has been achieved.

"(b) A dispositional order vesting legal custody of a child in a department, agency, or institution may be extended for additional periods of one year, upon motion of the department, agency, or institution to which the child was committed, if, after notice and hearing, the Division finds that—

"(1) in the case of a neglected child, the extension is necessary to safeguard his welfare; or

"(2) in the case of a child adjudicated delinquent or in need of supervision, the extension is necessary for his rehabilitation or the protection of the public interest.

"(c) Any other dispositional order may be extended for additional periods of one year, upon motion of the Director of Social Services, if, after notice and hearing, the Division finds that extension is necessary to protect the interest of the child.

"(d) A release or termination of an order prior to expiration of the order pursuant to subsection (a) (1) or (3), shall promptly be reported in writing to the Division.

"(e) Upon termination of a dispositional order a child shall be notified in writing of its termination. Upon termination of an order or release a child shall be notified, in accordance with rules of the Superior Court, of his right to request the sealing of his records as provided in section 11–1109 of this Code.

"(f) Unless sooner terminated, all orders of the Division under this subchapter in force with respect to a child terminate when he reaches twenty-one years of age.

"§ 16–2319. Modification, termination of orders

"(a) An order of the Division under this subchapter shall be set aside if—

"(1) it was obtained by fraud or mistake sufficient to set aside an order or judgment in a civil action;

"(2) the Division lacked jurisdiction; or

"(3) newly discovered evidence so requires.

"(b) A child who has been committed under this subchapter to the custody of an institution, agency or person, or the parent or guardian of the child, may file a motion for modification or termination of the order of commitment on the ground that the child no longer is in need of commitment, if the child or his parent or guardian has applied to the institution or agency for release and the application was denied or not acted upon within a reasonable time.

"(c) The Director of Social Services shall conduct a preliminary review of motions filed under subsection (b) and shall prepare a report to the Division on the allegations contained therein. The Director may dismiss the motion if it concludes from the report that it is without substance. Otherwise, the Division, after notice, shall hear and determine the issues raised by the motion and deny the motion, or enter an appropriate order modifying or terminating the order of commitment, if it finds such action necessary to safeguard the welfare of the child or the interest of the public.

"(d) A motion may be filed under subsection (b) no more than once every six months.

"§ 16–2320. Probation revocation; disposition

"(a) If a child on probation incident to an adjudication of delinquency or need of supervision commits a new delinquent act, or a probation violation not amounting to a delinquent act, he may be proceeded against in a probation revocation hearing.

"(b) A proceeding to revoke probation shall be commenced by the filing of a revocation petition by the Corporation Counsel. The petition shall be in such form as may be prescribed by rule of the Superior Court and shall be served together with a summons in the manner provided in section 16–2304.

"(c) Probation revocation proceedings shall be heard without a jury and shall require establishment of the facts alleged by a preponderance of the evidence. As nearly as may be appropriate, probation revocation proceedings shall conform to the procedures established by this subchapter for delinquency and need of supervision cases.

"(d) If a child is found to have violated the terms of his probation, the Division may modify the terms and conditions of the probation order, extend the period of probation, or enter any other order of disposition specified in section 16–2316 for a delinquent child.

"§ 16–2321. Support of committed child

"Whenever legal custody of a child is vested in any agency or individual other than the child's parent, after due notice to the parent or other persons legally obligated to care for and support the child and after hearing or thereafter, order and decree that the parent or other legally obligated person shall pay, in such manner as the Division may direct, a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the Division may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

"§ 16–2322. Court costs and expenses

"If, at the dispositional hearing or thereafter, the Division finds after due notice and hearing that the parent or other person legally obligated to care for and support a child subject to proceedings under this subchapter is financially able to pay, the Division may order him to pay all or part of the costs of—

"(1) physical and mental examination and treatment of the child ordered by the Division; and

"(2) reasonable compensation for services and related expenses of counsel appointed by the court to represent the child, or, in neglect cases, himself.

Payment shall be made as prescribed by rules of the Superior Court.

"§ 16–2323. Interlocutory appeals

"(a) A child who has been ordered transferred for criminal prosecution under section 11–1104 of this Code or detained or placed in shelter care or subjected to conditions of release under section 16–2309, shall have a right of interlocutory appeal. Such appeal shall be commenced by the filing of a notice of interlocutory appeal within two days of the entry of the order appealed from.

"(b) The District of Columbia Court of Appeals shall hear argument on an appeal pursuant to subsection (a) on or before the second day (excluding Sundays) after the filing of notice, shall dispense with any requirement of written briefs other than the supporting materials previously submitted to the Family Division, shall render its decision on the next day following argument on appeal, and in so rendering may dispense with the issuance of a written opinion.

"(c) In cases involving transfer for criminal prosecution, the pendency of an interlocutory appeal shall act to stay criminal proceedings. Until the time for filing an interlocutory appeal has lapsed, or if an appeal is filed until its completion, no child who has been ordered transferred for criminal prosecution shall be removed to a place of adult detention, except as provided in section 16–2310, or otherwise treated as an adult.

"(d) The decision of the District of Columbia Court of Appeals shall be final.

"§ 16–2324. Finality of judgments; appeals; transcripts

"(a) Except as otherwise expressly provided by law, in all hearings and cases tried before the Division pursuant to this subchapter, the judgment of the Division is final.

"(b) In all appeals from decisions of the Family Division with respect to a child alleged to be neglected, delinquent, or in need of supervision, the child shall be identified only by initials in all transcripts, briefs, and other papers filed, and all necessary steps, as prescribed by rule of the District of Columbia Court of Appeals, shall be taken to protect the identity of the child.

"(c) Upon the filing of a motion and supporting affidavit stating that he is financially unable to purchase a transcript, a party who has filed notice of appeal or of interlocutory appeal shall be furnished, at no cost or at such part of cost as he is able to pay, so much of the transcript as is necessary adequately to prepare and support the appeal.

"(d) An appeal does not operate to stay the order, judgment, or decree appealed from, but on application and hearing whenever the case is properly before the appellate court, that court may order otherwise if suitable provision is made for the care and custody of the child.

"§ 16–2325. Additional powers of the Director of Social Services

"In addition to the powers and duties prescribed in section 11–1722, the Director of Social Services shall have power to take into custody and place in detention or shelter care, in accordance with this subchapter, children who are under his supervision as delinquent, in need of supervision, or neglected, or children who have run away from agencies or institutions to which they were committed under this subchapter.

"§ 16–2326. Order of adjudication noncriminal

"A consent decree, order of adjudication, or order of disposition in a proceeding under this subchapter is not a conviction of crime and does not impose any civil disability ordinarily resulting from a conviction, nor does it operate to disqualify a child in any future civil service examination, appointment, or application for public service under either the Government of the United States or of the District of Columbia.

"§ 16–2327. Emergency medical treatment

"Nothing in this subchapter shall prevent a public agency having custody of a child who is under the jurisdiction of the Division from providing the child with emergency medical treatment.

"§ 16–2328. Time limitations

"(a) On motion in any case by or on behalf of the child, or in neglect cases also by or on behalf of his parent, guardian, or custodian, a delinquency, need of supervision, or neglect petition shall be dismissed with prejudice where the factfinding hearing is not commenced within:

"(1) thirty days from the filing of the petition, where the child is not in custody at the time of said filing and is not, within ten days after said filing, taken into custody for the offense or acts charged in the petition; or

"(2) in all other cases, fifteen days from the filing of the petition.

"(b) In all proceedings in the Family Division, time limitations shall be reasonably construed by the Division for the protection of the community and of the child.

"(c) The following periods shall be excluded in computing the time limits established for proceedings under this subchapter and section 11–1104 of this Code:

"(1) the period of delay resulting from a continuance granted, upon grounds constituting unusual circumstances, at the request or with the consent, in any case, of the child or his counsel, or, in neglect cases, also of the parent, guardian, or custodian;

"(2) the period of delay resulting from other proceedings concerning the child, including but not limited to an examination or hearing on mental health or retardation and a hearing on a transfer motion;

"(3) the period of delay resulting from a continuance granted at the request of the Corporation Counsel if the continuance is granted because of the unavailability of evidence material to the case, when the Corporation Counsel has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or if the continuance is granted to allow the Corporation Counsel additional time to prepare his case and additional time is required due to the exceptional circumstances of the case;

"(4) the period of delay resulting from the imposition of a consent decree;

"(5) the period of delay resulting from the absence or unavailability of the child; and

"(6) a reasonable period of delay when the child is joined for a hearing with another child as to whom the time for a hearing has not run and there is good cause for not hearing the cases separately. In all other cases, the child's case shall be separated from the hearing of another child alleged to have participated in the same offense so that a hearing may be held within the time limits applicable to him.".

SEC. 5. Section 11–1104, District of Columbia Code, is amended to read as follows:

"§ 11–1104. Transfer for criminal prosecution

"(a) Within five days after the filing of a delinquency petition and prior to a factfinding hearing on the petition, the Corporation Counsel, following consultation with the Director of Social Services, may file a motion requesting transfer of the child for criminal prosecution, if:

"(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

"(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child; or

"(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age.

"(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of subchapter I of chapter 23 of title 16.

"(c) When there are grounds to believe the child is mentally retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) unless it determines that the child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16–2312(c)(2) of this Code or section 927 of the Act of March 3, 1901 (31 Stat. 1340), as amended (D.C. Code, sec. 24–301(a)).

"(d) Not later than fifteen days after the motion requesting transfer is filed, if the child is not in custody at the time of said filing, or, otherwise, not later than one week after said filing, the Division shall conduct a hearing on the motion for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority, unless a commitment pursuant to subsection (c) has intervened. If the Division finds that there are not reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney.

"(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

"(1) the child's age;

"(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

"(3) the child's mental condition;

"(4) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

"(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer.

The rules of evidence at transfer hearings shall be the same as those that govern dispositional proceedings in delinquency cases, as set forth in section 16–2313 of this Code. At a transfer hearing, only the propriety of eventual Family Division disposition shall be considered, and evidence bearing on probable cause or the likelihood that the child committed the act alleged shall not be admitted.

"(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least two days prior to the hearing.

"(g) When a child is transferred for criminal prosecution, the presiding judge shall set forth in writing his reasons therefor. These written findings shall be available, upon request, to any court in which the transfer is challenged, but shall not be available to the trier of fact on the criminal charge prior to verdict.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Family Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Family Division over the child is restored if the criminal prosecution is terminated other than by a verdict of guilty or not guilty by reason of insanity and if at the time of said termination no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.

"(i) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent factfinding proceedings relating to the offense.".

SEC. 6. Section 927 of the Act of March 3, 1901 (31 Stat. 1189, 1340, as amended; D.C. Code, sec. 24–301), is amended as follows:

(1) by substituting for the words beginning "Whenever a person is arrested" and ending "period of probation" in the first sentence of subsection (a), the following: "Whenever a person is arrested or indicted for, or charged by information with, an offense, or a child is the subject of a transfer motion in the Family Division of the Superior Court pursuant to section 11–1104 of the District of Columbia Code, and, prior to the imposition of sentence or the expiration of any period of probation, or prior to hearing on the transfer motion,";

(2) by striking the period at the end of the second sentence of subsection (a) and substituting in lieu thereof: "or participate in transfer proceedings.";

(3) by inserting after the words "stand trial" in the third sentence of subsection (a), "or participate in transfer proceedings"; and

(4) by inserting after the words "stand trial" in both places it appears in subsection (b), "or participate in transfer proceedings".

SEC. 7. (a) Subdivision (3) of section 11–1101(a), District of Columbia Code, is amended by striking the phrase "(including actions under section 1 of the Act of March 23, 1906 (34 Stat. 1131), as amended (D.C. Code, sec. 22–903))".

(b) Section 11–1110, District of Columbia Code, is amended as follows:

(1) by striking the phrase, "The United States attorney for the District of Columbia or"; and

(2) by substituting, "16–2346(a)", for the section number, "16–2354(a)".

(c) Section 16–916, District of Columbia Code, is amended as follows:

(1) by amending the section heading (and so much of the analysis of chapter 9 of title 16, District of Columbia Code, as relates to section 16–916) to read, "Maintenance of wife and minor children; maintenance of former wife; maintenance of minor children; enforcement";

(2) by inserting immediately after subsection (b) the following new subsection (c)—

"(c) Whenever any father or mother shall fail to maintain his or her minor child, or children, the court may decree that he or she shall pay reasonable sums periodically for the support and maintenance of said child, or children, and the court may decree that he or she pay court costs, including counsel fees, to enable plaintiff to conduct the case."; and

(3) by redesignating the succeeding subsection, existing subsection (c), as subsection (d).

(d) Chapter 23 of title 16, District of Columbia Code, is amended as follows:

(1) by striking, from the analysis of subchapter II, references to sections 16–2341 through 16–2355, and by substituting the following in lieu thereof—

"16–2341. Representation.
"16–2342. Time of bringing complaint.
"16–2343. Blood tests.
"16–2344. Exclusion of public.
"16–2345. New birth record upon marriage of natural parents.
"16–2346. Reports to Director of Public Health.
"16–2347. Death of respondent; liability of estate."; and

(2) by striking sections 16–2341 through 16–2355, and by substituting the following in lieu thereof—

"§ 16–2341. Representation

"Where a public support burden has been incurred or is threatened, the Corporation Counsel of the District of Columbia, or any of his assistants, shall bring a civil action on behalf of any wife or child in the Family Division of the Superior Court of the District of Columbia to enforce support of such wife or child under subdivision (3), (4), (10), or (11) of section 11–1101(a).

"In all cases arising under subdivisions (3), (4), (10), and (11) of section 11–1101 (a), where the court deems it necessary and proper, an attorney shall be appointed by the court to represent the respondent.

"Nothing in this section shall be construed to interfere with the right of an individual to file a civil action under the subdivisions aforementioned.

"§ 16–2342. Time of bringing complaint

"Proceedings under subdivisions (3) and (11) of sec. 11–1101(a) to establish paternity and provide for the support of a child born out of wedlock may be instituted after four months of pregnancy or within two years after birth of the child, or within one year after the putative has ceased making contributions for the support of the child. The time during which the respondent is absent from the jurisdiction shall be excluded from the computation of the time within which a complaint may be filed.

"§ 16–2343. Blood tests

"When it is relevant to an action arising under section 11–1101(a), the court may direct that the mother, child, and the respondent submit to one or more blood tests to determine whether or not the respondent can be excluded as being the father of the child, but the results of the test may be admitted as evidence only in cases where the respondent does not object to its admissibility. Where the parties cannot afford the cost of a blood test, the court may direct the Department of Public Health to perform such tests without fee.

"§16–2344. Exclusion of public

"Upon the trial of proceedings pursuant to subdivision (3), (4), (10), or (11) of section 11–1101(a), the court may exclude the general public, and shall do so at the request of either party.

"§ 16–2345. New birth record upon marriage of natural parents

"When a certified copy of a marriage certificate is submitted to the Director of Public Health, establishing that the previously unwed parents of a child born out of wedlock have intermarried subsequent to the birth of the child, and the paternity of the child has been judicially determined or acknowledged by the husband before the Commissioner of the District of Columbia or his designated agent, or has been acknowledged in an affidavit sworn to by the husband before a judge or the clerk of a court of record, or before an officer of the Armed Forces of the United States authorized to administer oaths, and the affidavit is delivered to the Commissioner or his designated agent, a new certificate of birth bearing the original date of birth and the names of both parents shall be issued and substituted for the certificate of birth then on file. The original certificate of birth and all papers pertaining to the issuance of the new certificate shall be placed under seal, and opened for inspection only upon order of the Family Division of the Superior Court of the District of Columbia.

"§ 16–2346. Reports to Director of Public Health

"(a) Upon entry of a final judgment determining the paternity of a child born out of wedlock, the clerk of the court shall forward a certificate to the Director of Public Health of the District of Columbia, or his authorized representative, in the jurisdiction in which the child was born, giving the name of the person adjudged to be the father of the child.

"(b) Upon receipt of the certificate provided for by subsection (a) of this section, the Director of Public Health or his authorized representative shall file it with the original birth record, and thereafter may issue a certificate of birth registration including thereon the name of the person adjudged to be the father of the child.

"§ 16–2347. Death of respondent; liability of estate

"If the respondent dies after paternity has been established and prior to the time the child reaches the age of 18 years, any sums due and unpaid under an order of the court at the time of his death shall constitute a valid claim against his estate.".

(e) The following provisions of law are repealed:

(1) the Act of March 23, 1906 (34 Stat. 86), as amended (D.C. Code, secs, 22–903 through 22–905); and

(2) the proviso contained in the Act of May 18, 1910 (36 Stat. 403, D.C. Code, sec. 22–906, under the heading "COURTS" and the subheading "JUVENILE COURT".

The amendment was agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–620), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

S. 2981 as amended in committee constitutes a vital measure for the reduction of crime committed in the National Capital, as the bill's principal purpose is to break the crime cycle whereby juvenile offenders graduate from the juvenile system as adult criminals.

More specifically, the bill S. 2981 as reported has the following objectives: to expedite the adjudication of juveniles and enhance their rehabilitation, and to improve court procedures for juveniles so as to provide them their due process of law.

To these ends, the bill (S. 2981) recommended by this committee—

Establishes time limits for the principal juvenile proceedings;

Telescopes many of the proceedings which a juvenile may have to undergo;

Provides separate treatment or disposition for the different categories of juveniles;

Require proof of involvement beyond a reasonable doubt, while eliminating cumbersome and inappropriate trial by jury;

Provides a right to counsel and to be informed of the specific charges at the earliest practicable juncture; and

Relieves the juvenile system of those repeated offenders whom the system cannot realistically handle.

NEED FOR LEGISLATION

A soaring caseload of crime-related charges against juveniles in the National Capital, together with the inability of the existing juvenile court in the District of Columbia to meet the demands placed upon it, have had the effect in combination of perpetuating the juvenile crime cycle in the District, and have practically assured that a juvenile offender in the District will later become an adult offender.

The act S. 2601, passed by the Senate on September 18, 1969, responds to the problem, in part, by replacing the existing three-judge juvenile court with a Family Division (of the proposed local Superior Court) of a size expandable to meet any pending caseload. Further legislative response is imperative, however, in order to correct the outmoded, inefficient, and unfair procedures presently followed in the juvenile court.

The Senate District Committee has devoted much of its attention during this session of Congress to the alarming increase in crime in the National Capital. The committee's hearings and investigations have determined that in no other area is the crime problem as severe as in that of juvenile offenses. Metropolitan Police Chief Jerry Wilson in a recent White House meeting on crime in the District stated that as much as 45 percent of the serious crime in the National Capital is committed by persons under the age of 18.

Testimony before the committee has indicated that, between 1963 and 1969, the number of cases referred to the juvenile court involving serious crimes committed by juveniles over 16 increased by the following percentages:

Aggravated assault	Up 91 percent
Robbery[1]	Up 258 percent
Burglary	Up 96 percent

[1] 50 percent of the robberies were armed robberies.

The annual report of the juvenile court indicates that, during the 12-month period ending June 30, 1969, cases involving 29 homicides, 37 rapes, 780 robberies, 1,115 burglaries, and 537 assaults were referred to juvenile court.

While these statistics are alarming of themselves, they assume even greater significance when compared with the high rate of recidivism among juveniles. During the fiscal year 1969, 33 percent of the juveniles referred to juvenile court had previously been adjudicated delinquent. Approximately 33 percent, in other words, had been previously found to be involved in a law violation.

With the persistent rise in juvenile crime, especially crimes of violence since 1963, the District of Columbia juvenile court has been falling further and further behind in disposing of the cases referred to it. The backlog has grown to outrageous proportions; as of June 30, 1969, the total number of cases waiting to be heard by the court had reached 3,483, with a total of approximately 7,000 new juvenile cases being referred to the juvenile court each year.

This backlog of cases has been a major cause of the intolerable delays which now exist in the court. It is not unusual for a juvenile released to the community pending trial to wait more than a year before having his case adjudicated. A juvenile in detention awaiting court action has his case disposed of somewhat more quickly, but may still wait several months before his case is decided.

In its report issued December 4, 1969, the Advisory Panel Against Armed Violence (appointed by District Committee Chairman Joseph D. Tydings) revealed that, during the

period between July and September 1969, 313 juveniles were rearrested for additional crimes while awaiting disposition on a previous charge. Testimony before the Senate District Committee in July of this year indicated that 1,742 juveniles were then awaiting an initial hearing; 358 were awaiting court trial; 290 were awaiting jury trials; 219 juveniles were awaiting final disposition; and, indeed, 400 cases had been awaiting an initial appearance for more than 9 months.

The demands of the crime-related caseload in the juvenile court, moreover, have prevented that court from allocating a significant portion of even its limited resources to other responsibilities—such as dependency and neglect, and paternity and nonsupport cases.

Senate District Committee hearings, and information provided by the Committee on the Administration of Justice of the District's Judicial Council, have revealed debilitating deficiencies in the administration of the local juvenile court, and have suggested numerous areas where juvenile court procedures must be changed.

Revision of the District's juvenile code is overdue. Since the decision by the U.S. Supreme Court in *In re Gault* (371 U.S. 1) in 1967, major revisions of juvenile codes throughout the country have been necessary. At least 34 States have already enacted such revisions; the Commissioners on Uniform States Laws have revised the Uniform Act; and the Department of Health, Education, and Welfare has prepared a Legislative Guide for Drafting Family and Juvenile Courts Acts. Even prior to *Gault*, the decision of the Supreme Court in *In re Morris Allen Kent* (383 U.S. 541) in 1966 made it clear that revision of the District's law was necessary.

The administration of justice in the District and the Nation needs to be drastically overhauled. In no other part of the total judicial system is improvement so drastically needed—in no other part is improvement so important—as in the system for the adjudication and treatment of juveniles. In the case of the juvenile system uniquely, there is a finite limit on the time available for therapy and for the psychological acceptance of rehabilitation.

HISTORY OF LEGISLATION

Court reorganization has been one of the major concerns of this committee during this First Session of the 91st Congress. The need for court reorganization was recognized by the President in his message to Congress in January on crime in the District of Columbia, and later in his legislative program for the courts embodied in S. 2601 submitted to the Congress in July 11, 1969. S. 2601 was passed by the Senate on September 18, 1969, following extensive hearings held by the District of Columbia Committee. Throughout these hearings it was apparent that court reorganization would not achieve the desired goals of improving the overall administration of justice in the National Capital without significant revision in the procedures of the District's juvenile court.

The revision of juvenile court procedure provided in S. 2981 constitutes part of the court reorganization package of the administration. However, the bill S. 3981 was not received by the Senate District Committee until October 1, after the major court reorganization legislation had been passed by the Senate.

Hearings devoted specifically to the problems of the District of Columbia juvenile court were held by the committee on November 18 and 20, 1969, although substantial information concerning the problems of the court came to light in the earlier court reorganization hearings in May and again in July of this year. The material available to the committee in its consideration of S. 2981 includes the testimony and record available in District Committee publications "Crime in the National Capital," part 3, Reorganization of the District of Columbia Courts, and "Crime in the National Capital," part 7, Juvenile Court Proceedings.

Embodied in these documents is testimony and material from hundreds of persons and organizations concerned with the administration of justice in the National Capital.

Many of the witnesses who appeared at the hearings in November testified that modifications were necessary to improve the bill (S. 2981) and make it truly effective in overhauling the operation of the court. These witnesses included representatives of the bar of the District of Columbia, and specifically, members of the bar with years of experience in the juvenile court and with juvenile matters in general. The testimony of the witnesses together with specific recommendations they supplied to the committee proved highly useful in preparing the amended legislation. The Department of Justice likewise supplied the committee with extensive memoranda, as well as a number of amendments to the Department's original legislation, all of which have been approved.

One of the most significant aids to the committee in assessing and improving S. 2981 was the recently published "Legislative Guide for Drafting Family and Juvenile Court Acts" prepared by the Division of Juvenile Delinquency Service of the Department of Health, Education, and Welfare. This HEW Guide, together with the Uniform Juvenile Court Act adopted by the Commissioners on Uniform State Laws in 1968 and other model State laws, enabled the committee to draft amendments to S. 2981 that were not only meaningful in terms of the District's apparent needs, but reliably recommended by experts of national repute, persons well familiar with the problems of juvenile courts and juvenile delinquency.

The committee consulted with staff attorneys of the Department of Justice at every stage. At extensive staff-level conferences, Department attorneys and private consultants as well, juvenile court experts were in attendance and called upon to give the committee the benefit of their knowledge and experience. Every substantial issue was discussed, and all drafting was similarly executed with the aid of Government and private consultants.

PRINCIPAL FEATURE OF THE BILL

Expediting juvenile proceedings

In response to the suggestions of numerous witnesses and in order to meet needs repeatedly evidenced at hearings before the committee, the Senate District Committee has approved numerous innovative and clarifying amendments, designed to expedite juvenile proceedings and, in this way, restore a realistic prospect of effective therapy in the juvenile court system. The committee was persuaded that juvenile treatment, if delayed, is therapeutically ineffective, and that likewise delay in treatment gives occasion to further juvenile misconduct.

Subject to some few technical exceptions, the committee amendments provide the following:

(*a*) In all cases before the Family Division, the child shall have a single pretrial (or preliminary) hearing. If the child is in custody, the hearing shall encompass the features of the existing detention hearing, the initial appearance (or arraignment), the probable cause hearing. If he is not in custody, the hearing consists simply of an initial appearance, much like an adult arraignment.

(*b*) Any child taken into custody is to be thoroughly screened prior to his detention in a juvenile facility. Applying criteria suggested broadly in proposed section 16–2307, District of Columbia Code (in the bill as reported), to be further refined by court rule, the law enforcement officer or other person taking the child into custody must himself screen the child and forthwith bring before the Director of Social Services any child not released. Applying the same criteria, the Director of Social Services (or his deputy, that is to say, a court officer) must again screen any child brought before him. The committee expressly intends that at least one such court officer from the office of the Director of Social Services shall be available at all times, 24 hours of every day, and expects that such officer may be stationed at the juvenile facility itself. The committee intends further that (1) supporting personnel shall be likewise available and (2) administrative procedures devised, so as to assure the access of the latter screening officer (for example, by telephone communication with a court employee located at the court) to any child's records with the court, and so as to facilitate the initiating of the appointment of counsel, where appropriate, for any detained child. (Under the bill as reported, the right to counsel attaches at least as early as the pretrial or preliminary hearing, on the next day after the child is taken into custody.) The committee is advised, moreover, that the cost of maintaining a screening officer around the clock and supporting personnel will be more than offset by the saving resulting from the release of juveniles who, under applicable intake criteria, need not be detained.

(*c*) Section 7 of the bill, S. 2981, as reported abolishes the criminal and quasi-criminal incidents of nonsupport and paternity proceedings, converting them into purely civil matters. This amendment has been repeatedly proposed by the Committee on the Administration of Justice of the Judicial Council of the District of Columbia, and has been agreed to by the Department of Justice as an amendment to S. 2981. The foremost object of the amendment is to rid the Family Division trial calendar of one of the major causes of the existing juvenile court backlog. Moreover, it should be noted, the goal of paternity and nonsupport proceedings is to insure that a father will continue to support his minor children. The proposed amendment removes the criminal contempt sanction now imposed, with its attendant arrest and incarceration. The amendment thus enables a father to continue to work during the pendency of the case and afterward, and so to provide the very support which is the goal of the proceedings. The court, meanwhile, has the sanction of civil contempt, which can be imposed upon those fathers who refuse to make payments. Again, since the way to purge civil contempt is to make the required payments, the civil contempt sanction can even more effectively accomplish the purpose of the proceeding than the criminal contempt sanction; namely, to insure that support payments are made.

(*d*) Lastly, as generally recommended in the HEW Guide, time limits are provided for the principal juvenile proceedings. Moreover, since, in the committee's opinion as previously suggested, delay in juvenile proceedings operates to the detriment both of the community and of the child, proposed subsection (b) of section 16–2328, District of Columbia Code (in the bill as reported), is intended to make clear that the time limits are not waivable by the child; and proposed section 16–2328 goes further to require a showing of a high order of justification, intended to be strictly observed, as a prerequisite for the granting of any continuance (especially one which might undermine the limits prescribed). Specifically, the limits are as follows:

For detention cases (where the child is in custody)—

Preliminary hearing on or before the next day (excluding Sundays) after the child is taken into custody, with the possibility of a continuance of no more than 5 days for the determination of probable cause only;

Factfinding hearing (including ordinary pretrial motions) within 15 days of the preliminary hearing;

Dispositional hearing (ordinarily including also the assessment of court costs and any assignment of support obligation) within 15 day of the factual finding hearing;

Any waiver motion to be filed within 5 days of the filing of the petition, with a hearing to follow within 1 week of the filing of the motion;

For non-detention cases (where the child has been released into the community)—

Preliminary hearing (initial appearance or arraignment only) within 5 days of the inital complaint;

Factfinding hearing (including ordinary pretrial motions) within 30 days of the preliminary hearing;

Dispositional hearing (ordinarily including also the assessment of court costs and any assignment of support obligation) within 30 days of the factfinding hearing;

Any waiver motion to be filed within 5 days of the filing of the petition, with a hearing to follow within 15 days of the filing of the motion; and

As to interlocutory appeals (which shall be allowed and the resolution of which shall be final) from detention and waiver orders—

Notice of appeal within 2 days of the entry of the order;

Argument on appeal (no formal brief required) within 2 days of the notice of appeal;

Decision (no opinion required) on or before the next day following argument.

It should be noted that the bill as reported specifically provides the sanction of release from custody where the pretrial hearing (including the determination of probable cause) of a child under detention has not commenced within the time limitation prescribed. Moreover, the bill as reported provides the sanction of dismissal with prejudice where the factfinding hearing has not commenced within the time prescribed therefor. Without expressing any view as to the exact sanction which the courts might provide or devise, for failure to meet other time limits, the committee expects that the Division will encounter scant difficulty in meeting said limits, and intends that they be regularly enforced by some appropriate means. Most notably, the committee has judged the limitations unqualifiedly feasible in the context of an expanded and expandable Family Division (created under the court reorganization legislation for the District passed by the Senate earlier in this session of Congress).

Categories of juveniles

Under the bill S. 2981, three categories of juveniles are created—"delinquent," "in need of supervision," and "neglected"—for purposes both of adjudication and of disposition of treatment. Modeled upon the recommendations of the HEW Guide, the categories are designed to impose only that degree of stigma (even within the juvenile context) which must necessarily attach and, more especially, to occasion special provision for the distinct therapeutic needs of the three groups.

Acting in part upon the recommendation of numerous witnesses, the District Committee has revised the definition of "person in need of supervision" to clarify the intent behind the creation of this middle category. The "in need of supervison" category is properly designed to reach children who have been guilty of some misconduct (unlike children who are merely neglected) but whose misconduct has not consisted of so grave a law violation as to merit being characterized as delinquent.

Also, the Senate District Committee has revised the provision in subsection (d) of proposed section 16–2316, District of Columbia Code, so as to implement the precise recommendation of the HEW Guide. Under the bill as reported a child found to be in need of supervision may at the outset be confined along with other such children only. The bill as introduced permitted the court to direct that such a child at the outset be confined with delinquents; but under the revised provision confinement with delinquents can be ordered only when the child's conduct in an institution or otherwise under treatment with others in his category in fact proves to be unsatisfactory.

The reasoning approved by the committee in this regard is that, if confinement as a delinquent is appropriate at the outset, then a delinquency petition should be brought. The committee recalled, notably, that the rationale for the creation of the separate categories—that is to say, the significance of the three categories of juveniles—relates largely to the appropriateness of the three different modes of treatment.

Lastly, the committee has revised proposed section 16–2316, District of Columbia Code, to eliminate authority for transferring to an adult facility those delinquents whose conduct in the delinquency facility might be characterized as uncontrollably disruptive. In this regard likewise, the committee has followed the recommendations of the HEW Guide. Also the committee has considered the following: (1) with many older juveniles excluded from Family Division jurisdiction (by reason of the expedited waiver and new definition of "child" provided in the bill, S. 2981, as reported), the incidence of unruly behavior in delinquent institutions is not expected to be significant; (2) the District's new juvenile facility is reportedly well equipped to handle any case of unruliness which may arise; (3) misconduct by a child under commitment as a delinquent can usually serve as grounds for transfer for trial as an adult (or even exclude the juvenile from the new definition of "child"); and (4) the possibility of transfer to an adult facility casts a pall of unconstitutionality over the absence of full "adult" procedural safeguards in connection with adjudication in the juvenile court.

Definition of "child"

The definition of "child" in S. 2981 as reported is designed at once to reflect realistically the limitation of the rehabilitative impact of a juvenile court system, and to provide for improvement in the treatment available for adjudicated delinquents in the District's juvenile facilities.

Under proposed section 16–2301(3), District of Columbia Code, jurisdiction of the Family Division (of the proposed Superior Court of the District of Columbia, created in S. 2601) extends, in general, to persons under the age of 18. Excluded from the latter class, however, is any person 16 years of age or older in any case (1) where such person is formally charged with the commission of one or more of certain enumerated grave offenses, and (2) where such persons has previously had the benefit of special juvenile disposition after being charged with serious misconduct committed after attaining the age of 15.

In other words, under proposed section 16–2301(3), Family Division jurisdiction terminates generally at age 18. But in addition the Division does not have jurisdiction as of age 16 in certain grave cases, where juvenile treatment has recently and demonstrably proved ineffective. The latter refinement—retaining Family Division jurisdiction over first-offenders in the 16- to 18-year-old age group—represents an amendment by the Senate District Committee, designed to manifest the precise conclusion and policy approved by this committee.

The committee was mindful of the principal rationale underlying the maintaining of a juvenile court system, and appreciates the wisdom of the objective of substituting treatment or rehabilitation for punishment in cases of as yet unformed youths. The committee was not inclined, therefore, to approve a lowering of the jurisdictional age limit (for the Family Division) in simple reaction to statistics indicating a greater incidence of crime committed by juveniles aged 16 to 18. Rather, the committee has inquired as to whether such incidence indicates that it is fruitless to provide mere juvenile therapy for this 16- to 18-year-old age group, or similarly whether such incidence indicates that the members of this group who come before the courts are commonly not still substantially informed.

The committee has concluded that a juvenile can reliably be considered too well formed or sophisticated for, and beyond the reach of, mere juvenile therapy if the particular juvenile has already been exposed, in years of relative discretion, to the juvenile system and treated to the extent that his case required (as suggested by a prior finding of delinquency), and has nevertheless returned to serious misconduct (as suggested by a serious felony charge).

Conversely, the committee did not take so dim a view of juveniles in the 16- to 18-year-old age group generally as to presume sophistication in every case involving serious misconduct—and especially in cases involving first-offenders or where any previous offense was committed before the onset of a relatively significant degree of discretion. Moreover, the committee's estimate of the total age group, and not just those in the group who have appeared before the court, was weighed heavily in light of the absence of any provision whereby a judge in the Criminal Division might transfer back to the Family Division an obviously unsophisticated or immature youngster.

It should be noted that the judgment of the Senate District Committee does not rest upon any conclusion regarding the deterrent impact of curtailing Family Division jurisdiction. On the one hand, it has been repeatedly suggested to the committee that, with the expediting of juvenile proceedings, following enactment of the pending juvenile code, it will be the Family Division that will swiftly and surely adjudicate and mete out appropriate treatment for juvenile offenders, while the experience of youthful offenders in the Criminal Division will be less significantly changed. The argument proceeds to the effect that the procedural niceties of trial as an adult will make (and, according to statistics regarding juveniles who have been waived, have made) conviction and punishment in the criminal courts far less certain. That is to say, to the extent that adjudication has a deterrent impact, that impact is likely to be greater with the full retention of Family Division jurisdiction as at present.

On the other hand, the counter arguments appear equally sound: deterrence, it is urged, turns upon punishment instead of mere adjudication, and, as between penal incarceration and juvenile therapy, the former is the less appealing prospect. Likewise, more certain adjudication in fact in the Family Division may be less important than the uninformed impression that adult proceedings are more grave.

The Senate District Committee was mindful of the alternatives available to a judge in the Criminal Division, to commit a youthful offender to facilities apart from strictly penal institutions and where the youthful offender might have the benefit of extensive rehabilitation designed for his approximate age group. That is to say, the committee recognized that curtailing Family Division jurisdiction is not necessarily tantamount—and, in the context of local sentencing practices, is by no means tantamount—to directing the confinement of teenagers alongside of considerably older, more hardened criminals.

The Senate District Committee viewed the exclusion of certain of the more sophisticated, older juveniles from the jurisdiction of the Family Division—and, as a consequence, the cessation of the commitment of such juve-

niles as a matter of course to juvenile facilities—as a means of increasing the manageability of the population of the District's juvenile facilities and of enhancing the effectiveness of the therapy available at those facilities.

Lastly, the District Committee recalled the opposition, expressed by most commuity witnesses and by all of the representatives of the government of the District of Columbia, to any lowering of the jurisdictional age limit. It was this opposition, in part, which inclined the committee not to judge the 16- and 17-year-olds of the District generally to be sophisticated, irremediably well set in their ways, or otherwise poor rehabilitation risks. In consequence likewise, the committee disapproves any lowering of the age limit in the absence of the requirement of recent prior adjudication and prior treatment as a juvenile.

Transfer for criminal prosecution

Section 5 of the bill S. 2981 is designed to render more viable the procedure available in the existing juvenile court, whereby the occasional case which is clearly inappropriate for disposition by the juvenile court may be transferred to the adult criminal division.

The most significant change which section 5 effects is to replace the existing theory underlying transfer (and, with it, the ultimate finding required of the court of the transfer hearing)—that transfer is warranted where criminal prosecution is appropriate—with a similar but more easily determinable theory (and, with it, a more easily determinable ultimate finding for the court to make at the transfer hearing)—that transfer is warranted where juvenile disposition is not appropriate.

The revised theory (and ultimate finding) reflects the fact that there exists a special purpose for juvenile disposition, while the ordinary course in detailing with unlawful conduct is to proceed to criminal trial. Historically and as a matter of continued legislative policy, juvenile disposition has been provided specially, so that children, who might reasonably be "redeemed" before the age of 21 by means of rehabilitative therapy alone, can be spared the harsh anomoly of reasonably complete rehabilitation simultaneous with the stigma of criminal conviction. Historically and as a matter of legislative policy, at least under the pending juvenile code, the residual course, where purpose perforce is less well defined, consists of prosecution in the adult court, the Criminal Division.

For the reasons just described, the change in underlying the theory creates a transfer mechanism weighted, in effect, in favor of criminal prosecution; the finding to be made relates to the appropriateness of Juvenile disposition and there need be no affirmative showing regarding the appropriateness of the alternate course of transfer to the Criminal Division.

The Senate District Committee has disapproved, however, the further, procedural presumption proposed in S. 2981 as introduced—whereby transfer was mandated (in cases where a motion for transfer has been filed) unless the child were to prove that he ought not to be transferred. The bill as reported by the committee, to the contrary, mandates transfer only where the Government has shown that the child ought to be transferred, that is, where the Government has shown that juvenile disposition would not be appropriate.

In this last regard, the committee has specifically adopted the recommendation of the HEW Guide. The purpose of the amendment is to retain ultimate decisionmaking power in the court as to an inquiry which can only be pursued fairly if the court is allowed to exercise considerable discretion. (It should be recalled that transfer is intended to operate in the unusual case—and not in every case where the child and the offense create eligibility, nor even in every eligible case where the Government has filed the requisite motion.)

It is the committee's objective also to assign the burden of proof to that party which can more easily bear it. The committee has concluded that, as in most cases, supporting evidence will be more easily obtained by the moving party, the party bringing the motion. Similarly, Government Counsel (the Corporation Counsel), the committee has concluded, will ordinarily be more experienced with juvenile proceedings and more familiar with the treatment available in the juvenile system.

A further feature of proposed section 11–1104, District of Columbia Code (the transfer provision in section 5 of the pending bill) designed to render the transfer procedure viable consists of the enumeration of factors which must be considered at the transfer hearing. The list (in subsection (e)) is not intended to be exclusive, now is any particular legislative intent directed to the inferences to be drawn from or weight to be assigned to evidence of the stated factors. Nevertheless, the committee's expectation is that the statutory listing will forestall a substantial amount of litigation which might otherwise arise in the development of guidelines for transfer on a case-by-case basis.

Eligibility for transfer is extended in S. 2981 in two notable respects: a motion may be filed for the transfer of a 15-year-old charged with a felony; and a 16-year-old may be transferred in a case involving a misdemeanor if the offense is committed while the child is under commitment as a delinquent.

It should be noted again that, rather than the statistics with which the District Committee was supplied indicating simply a substantial incidence of serious criminal conduct among 15-year-olds, the committee would have preferred to receive more direct evidence, impunging the 15-year-old's potential for rehabilitation, before being asked to approve the eligibility of certain 15-year-olds for transfer away from the juvenile system. Nevertheless, the committee recognized that eligibility for transfer is substantially less significant of itself under circumstances where there must be a showing in every transfer case (as is required under S. 2981 as reported) that juvenile disposition is inappropriate.

The eligibility of 16-year-old misdemeanants under delinquency commitment represents a substitute for the elimination of the mechanism for transferring uncontrollable delinquents to an adult facility. (See *Categories of juveniles*, above.) It is anticipated that a motion for transfer will be brought when the misconduct of a delinquent in an institution cannot be handled effectively. It should not matter in such a case whether the misconduct amounts to a felony or a misdemeanor, of the supervisory authorities are moved to complain. There must be some mechanism available for relieving the juvenile institutions of the burden of uncontrollable juveniles; and as between administrative transfer and fresh adjudication, the Senate District Committee deems the latter preferable.

Lastly, S. 2981 as introduced provided that, upon transfer, jurisdiction of the Family Division terminates with respect to any other delinquent acts—apparently irrevocably, regardless of the nature of the disposition in the Criminal Division, and apparently with regard to both pending and subsequent acts. The Senate District Committee has revised this provision so that (1) Family Division jurisdiction terminates as to any delinquent act committed subsequent to transfer, as is provided in the HEW Guide, with the understanding that, where circumstances warrant, the Family Division can terminate or suspend proceedings with respect to nonsubsequent acts. Also (2) under S. 2981 as reported, except where further criminal charges have been filed on the basis of conduct subsequent to transfer, Family Division jurisdiction over a child who has been waived is restored in the event that he is not convicted of the charge for which he is transferred.

In the opinion of the committee, Family Division jurisdiction must be restored where the basis of transfer has been invalidated. The Committee recognized that the ultimate finding, regarding the reasonable prospects of rehabilitation, consists of a prediction as to the nature of the child's social character at the time of disposition. So, too, the committee recognized that of great revelance to this prediction is the nature of the misconduct which, at the time of any disposition hearing, the child will have been found to have committed. Yet, in the committee's opinion, it follows logically—from the fact that the transfer finding amounts to prediction and from the assumption in that prediction that the child has committed the acts alleged—that a child who is found *not* to have commited the acts may well *not* suffer from the lesser prospects of rehabilitation predicted, and ought to be returned to the juvenile system.

The provision, that criminal charges based on misconduct subsequent to transfer bar the restoration of Family Division jurisdiction, simply constitutes a practical tempering of logic just described. This tempering is justifiable in that the nature of the pending charge is only one of several factors considered at the transfer hearing, and as an accommodation of the demands of administrative ease. Moreover, a juvenile found not guilty by reason of insanity is not restored, first, for the practical reasons just stated, and secondly, becouse of the adult Criminal Division is no less well equipped to dispose fairly of mental health cases.

Jury trial and standard of proof

Jury trial is presently allowed in juvenile proceedings in the District, doubtless in recognition both of the seriousness of the imposition of the "delinquency" stigma, and, of the grave importance of any determination that can be followed by a change in custody or by special confinement. The bill, S. 2981, as reported, however, manifests a conclusion by the Senate District Committee that the concerns just described are at least as well comprehended in the requirement of a high degree of certainty for all findings relating to adjudication in the Family Division.

The standard of proof in juvenile proceedings at present is by a preponderance of the evidence. The proposal in the original S. 2981 is of the somewhat higher standard of proof upon clear and convincing evidence. The Senate District Committee has adopted the recommendation of the HEW Guide, however: S. 2981 as reported provides the highest standard, of proof beyond a reasonable doubt, for fact-finding in delinquency and need of supervision cases, and proof upon clear and convincing evidence for factfinding in neglect cases and for the finding of need for care or rehabilitation at the dispositional hearing in delinquency and need of supervision cases.

It should be noted that neglect cases, in the committee's opinion, need not proceed with the highest or most exacting standard of proof for factfinding, in that the resultant stigma is of a lesser order; in that the proceeding is unmitigatedly oriented to concern with the welfare of the juvenile; and in that any accusatory aura in the neglect proceeding is directed toward the parent, guardian, or custodian named in the petition, and not toward the child.

It was suggested to the committee that, where trial is to a court sitting without a jury, the precise standard of proof is without great significance. It was suggested that no judge would order the confinement of a

juvenile except upon a strong factual showing of involvement. The committee's view is to the contrary, however: the clear danger exists that, with the enormous caseload in the Family Division, a judge assigned there might develop some prejudicial predisposition. At the same time, the committee is advised that a juvenile's involvement in fact—the actual commitment by the juvenile of the alleged acts—constitutes a therapeutic prerequisite, without which treatment may be entirely fruitless and even affirmatively harmful. A child cannot be effectively treated, it is suggested, unless he first is convinced that he has acted wrongly.

The Senate District Committee has concluded, again, that, inasmuch as the bill as reported provides a sufficiently high standard of proof for factfinding, the option of trial to a jury is both unnecessary and ill-advised. It is readily apparent that trial to a jury is the least expeditious means of factfinding. At the same time, the therapeutic need for expedition is especially great in a system devoted to impressionable juveniles; and expedition is indeed especially important in a system purported oriented in its entirety to therapy or treatment.

The committee likewise was persuaded of the following: (1) that the trial of a child before a jury may frequently prove unnecessarily traumatic, as the child's case, ordinarily in his presence, is discussed openly, formally, in the heat of an adverse setting, and before a panel of strangers, laymen, drawn from the adult community; and (2) that the jury's role in a juvenile proceeding is critically distinct from its role in the trial of an adult.

With regard to this last, it is notable that the jury in a juvenile court simply determines the facts, and all considerations regarding disposition are left to the court alone. No statutory penalty or mode of treatment is prescribed for any delinquent act; and consequently for the jury to find that the juvenile committed the acts alleged is not to assure any, much less any particular, treatment.

In contrast, in adult proceedings the jury traditionally serves a mixed, factfinding and dispositional function—as a buffer of representatives of the adult community standing between the adult defendant and punishment in the name of the community. The jury in criminal proceedings knows that to find that the defendant committed the acts alleged is to assure the imposition of a sentence (within the statutorily provided range of penalties for the offense); the jury traditionally makes, and can and must at least implicitly make, the determination as to whether a penalty ought to be imposed.

The Senate District Committee was persuaded that factfinding in a juvenile court may be better performed by an experienced judge, especially inasmuch as proceedings involving extensive testimony by juvenile parties and witnesses probably require a special, intellectual appreciation of the juvenile perspective as it affects juvenile perception. Or, at least, the committee concluded, there is no reason to suppose that a jury would perform the simple factfinding function more competently than an experienced judge.

Lastly, it should be noted that the original bill S. 2981 (as introduced) likewise eliminates jury trials from juvenile proceedings, as does the HEW guide model. Moreover, approximately four-fifths (⅘) of the States provided that all juvenile proceedings shall be conducted before a judge only. And, while the U.S. Supreme Court has not ruled on the question of whether trial to a jury is constitutionally required in juvenile proceedings, the highest courts of at least four States, in cases which postdate the landmark Supreme Court case of *In re Gault* (371 U.S. 1 (1967)), have specifically denied that such a requirement exists. (It will be recalled that it was *In re Gault* which most emphatically ruled that certain minimal procedural rights are required in juvenile court proceedings, but which did not specify, as being among those rights, trial by jury or, indeed, even adjudication upon evidence beyond a reasonable doubt.)

INCREASE OF MAXIMUM RATES OF PER DIEM ALLOWANCE AND REIMBURSEMENT

The bill (H.R. 944) to amend section 404(d) of title 37, United States Code, by increasing the maximum rates of per diem allowance and reimbursement authorized, under certain circumstances, to meet the actual expenses of travel was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the record an excerpt from the report (No. 91–622), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of this legislation is to increase for members of the uniformed services the maximum rates of per diem in lieu of subsistence from $16 to $25 per day and to increase the maximum amount which may be reimbursed when actual expenses are paid from $30 to $40 per day.

The increases authorized in this bill are identical to those which have already been enacted in the law for Federal civilian personnel (Public Law 91–114 approved November 10, 1969).

It should be emphasized that the rates authorized by the bill are the maximum ones which can be paid. It is anticipated that the average per diem rate will be about $13 per day rather than the maximum rate of $25. The lower amount is accounted for by the fact that in most instances of travel Government-owned quarters are furnished.

It should also be noted that the rates authorized in this bill apply only to travel within the contiguous 48 States and the District of Columbia. The per diem rates for travel between points overseas are authorized under different provisions of law and vary according to overseas location. The rates of per diem reimbursement for overseas travel vary by location and range from approximately $20 to $30 per day, depending on the points of travel involved.

BACKGROUND

At the present time, title 37, United States Code, section 404(d) authorizes members of the uniformed services to receive per diem in place of subsistence of not more than $16 per day and $30 per day on an actual expense basis for travel within the 48 contiguous States and the District of Columbia. These rates were authorized by the Congress in Public Law 87–500, approved June 27, 1962.

The Bureau of the Budget conducted a study in 1967, covering employee travel experiences in 18 Federal agencies including the Department of Defense. The study found the average daily subsistence expense was $19.21. However, since this 1967 study, there have been general price advances. During consideration of Public Law 91–114, the Senate Committee on Government Operations made a more current examination of travel expenses, and in their report No. 91–450 they concluded that a reasonable expectation of average costs would be between $24.50 and $25.38. Thus, the civilian bill was amended to increase the per diem allowance to $25.

With respect to the increase in the maximum per diem for reimbursements on an actual expense basis, the Bureau of the Budget study showed that very little travel was performed on an actual expense basis, but in the case of such travel the present-day allowance was not always adequate. Public Law 91–114 raised this figure to $40.

H.R. 944 as amended would provide allowances for military personnel that are identical to those now being received by civilian government employees under Public Law 91–114. Such an amendment was felt to be needed in order that all Government employees, military and civilian, will be treated equally.

FISCAL DATA

It is estimated that the additional annual cost to the Department of Defense resulting from the increases provided by H.R. 944, as amended, would be approximately $80.8 million. This dollar requirement can be financed within the revised Department of Defense budget for fiscal year 1970. The Department of Defense has recommended that the military allowances correspond with the civilian allowances as finally enacted.

ADJUSTMENTS OF RETIRED PAY

The bill (H.R. 14227) to amend section 1401(b) of title 10, United States Code, relating to adjustments of retired pay to reflect changes in Consumer Price Index was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–623), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

There are a number of basic differences between the military and civil service retirement systems. With respect to the method for increasing retired pay subsequent to retirement; however, the system is substantially the same for both the military and civil service retirees. Under the present statutory formulas, whenever the Consumer Price Index increases by 3 percent over the index which was the basis of the last adjustment in retired pay and maintains that level for 3 consecutive months, retired pay is increased by the highest percentage of increase attained during that 3-month period. The increase becomes effective on the first day of the third month after that 3-month period.

The purpose of this bill is to provide the same 1 percent add-on in the cost of living adjustment for military retirees that was provided for retired civil service employees under Public Law 91–93 which became effective October 31, 1969.

EXPLANATION

The basic cost-of-living formula is designed to protect the purchasing power of both civilian and military retired pay. The 3-percent formula already discussed was liberalized for Federal civil service employees by virtue of the legislation approved October 20, 1969, and effective October 31, 1969. Even though the present cost-of-living system is based on increases in the Consumer Price Index, there is some loss of purchasing power because of the timelag between the increases in the Consumer Price Index and the time of the increased adjustment of retired pay. During the period when the Consumer Price Index is building up to the 3-percent level, the value of military retired pay is somewhat eroded since it is not adjusted until the 3-percent formula has been complied with. While the purchasing power of the retired pay is substantially restored on the effective date of each adjustment, the restoration is only momentary during periods

of rapidly continuing inflation and the diminution of purchasing power of retired pay resumes and continues until the next adjustment.

As an example of the operation of the formula proposed by the bill, if the Consumer Price Index presently calls for an increase of 3.5 percent, the retired pay would be increased by 4.5 percent, representing the 1-percent add-on. By way of further example, the statutory formula for the Consumer Price Index required an increase of 4 percent in civil service pay effective November 1, 1969; however, with the added 1 percent, the net increase became 5 percent.

This system will substantially offset the loss of purchasing power of retired pay which occurs under the present system.

It should be noted that the effective date of this legislation would be October 31, 1969, which is the same date on which the 1-percent add-on legislation became effective for those under the civil service retirement system.

FISCAL DATA

The Department of Defense advised that based upon the retired pay budget for fiscal year 1970, the cost of a 1-percent increase in retired pay for 1 year would be approximately $27 million.

AMENDMENT OF THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT OF 1964 FOR CERTAIN EMPLOYEES, AS AMENDED

The bill (H.R. 14571) to amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–624), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to make certain changes in the CIA Retirement Act of 1964 which will conform to certain changes already enacted into law with respect to the Civil Service Retirement Act (Public Law 91–93, effective October 31, 1969).

Specifically, the bill amends the CIA Retirement Act as follows:

1. Uses high three average salary instead of high five for computing annuities;

2. Adds accumulated sick leave in computation of annuity;

3. Adds 1 percent to cost-of-living increases of annuities;

4. Authorizes surviving spouse to remarry after age 60 without loss of annuity and restoration of annuity on dissolution of remarriage before that age;

5. Upgrades survivorship benefits by increasing the fixed annuity for children; establishing a minimum survivor annuity; and reducing, in death in service cases, the minimum length of service requirement from 5 years to 18 months.

6. Increases agency and participant contributions to the fund from 6.5 percent to 7 percent of basic salary.

Certain provisions of the bill are given a retroactive effect in order for those CIA employees who retired on November 1 to have the same benefits as civil service employees who were retired on that date.

BACKGROUND

The CIA Retirement Act was enacted to provide a comprehensive retirement and disability program for a limited number of employees whose duties either were in support of Agency activities abroad, hazardous to life or health, or so specialized as to be clearly distinguishable from normal Government employment.

The Central Intelligence Agency operates under two retirement systems—the regular civil service retirement system for the majority of its employees and the one established under the CIA Retirement Act for a smaller number. The primary purpose of the latter system is to sustain a shorter career base for service where the conditions of employment are substantially different from those associated with normal Government employment. Key provisions of the CIA Retirement Act include a straight 2-percent factor in the computation formula and retirement eligibility at age 50 after 20 years of service, both modeled after civil service provision for certain personnel involved in law enforcement activities (5 U.S.C. 8336(c)). Other provisions of the CIA Retirement Act are, for the most part, also patterned after those of the civil service retirement system.

The provisions in the Civil Service Retirement Act amended by Public Law 91–93 form the basis for comparable provisions in the CIA Retirement Act. A change for one has equal merit for the other. Without conforming changes, annuities under the CIA Retirement Act will fall substantially behind civil service in the following critical areas:

1. Annuities of retirees;

2. Widows' annuities in death in service where less than 20-years service is involved;

3. Surviving children annuities;

4. Cost-of-living adjustments for annuitants.

The CIA Retirement Act must keep pace with the new concepts and increased benefits approved for the civil service retirement system. Failure to do so especially where comparability once existed, as is the instant case; would completely undermine the effectiveness of the CIA Retirement Act.

Public Law 90–539 (by which the cost-of-living provisions of the CIA Retirement Act was brought back into consonance with the civil service retirement system) serves as precedent for the approval of conforming amendments for the CIA Retirement Act as proposed in this report.

AUTHORIZATION OF DISTRICT OF COLUMBIA COMMISSIONER TO ENTER INTO CONTRACTS FOR PAYMENT OF DISTRICT'S EQUITABLE PORTIONS OF COSTS OF RESERVOIRS ON POTOMAC RIVER AND ITS TRIBUTARIES

The bill (S. 3009) to authorize the Commissioner of the District of Columbia to enter into contracts for the payments of the District's equitable portions of the costs of reservoirs on the Potomac River and its tributaries, and for other purposes was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 3009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of the District of Columbia is hereby authorized to contract, within an amount specified in a District of Columbia appropriation Act, with the United States, any State in the Potomac River Basin, any agency or political subdivision thereof, and any other competent State or local authority, with respect to the payment by the District of Columbia to the United States, either directly or indirectly, of the District's equitable share of any part or parts of the non-Federal portion of the costs of any reservoirs authorized by the Congress for construction on the Potomac River or any of its tributaries. Every such contract may contain such provisions as the Commissioner may deem necessary or appropriate.

SEC. 2. Unless hereafter otherwise provided by law, all payments made by the District of Columbia and all moneys received by the District of Columbia pursuant to any contract made under the authority of this Act shall be paid from, or be deposited in, the District of Columbia Water Fund. Charges for water delivered from the District of Columbia Water System for use outside the District of Columbia may be adjusted to reflect the portions of any payments made by the District of Columbia under contracts authorized by this Act which are equitably attributable to such use outside the District.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–625), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of this legislation is to give broad authorization to the Commissioner of the District of Columbia to enter into such contracts as he deems appropriate for the purpose of providing for payment to the United States of the District of Columbia's equitable share of the non-Federal costs of any reservoir which may be authorized by Congress for construction on the Potomac River or any of its taributaries which would benefit the District of Columbia water supply.

NEED FOR LEGISLATION

Section 203 of the Flood Control Act of 1962 (title II, Public Law 87–874), under the caption "Potomac River Basin" (76 Stat. 1182), authorizes the construction on the north branch of the Potomac River of a project which has come to be known as the Bloomington Dam and Reservoir. Since the project is to include water supply benefits subsection (b) of section 301 of the Water Supply Act of 1958 (title III, Public Law 85–500; 72 Stat. 319), as amended by section 10 of the Federal Water Pollution Control Act Amendments of 1961 (Public Law 87–88; 75 Stat. 210), provides—

"That before construction or modification of any project including water supply provisions for present demand is initiated, State or local interests shall agree to pay for the cost of such provisions in accordance with the provisions of this section: *And Provided Further,* That not to exceed 30 per centum of the total estimated cost of any project may be allocated to anticipated future demands where State or local interests give reasonable assurances, and there is reasonable evidence, that such demands for the use of such storage will be made within a period of time which will permit paying out the costs allocated to water supply within the life of the project."

When the construction of the Bloomington Dam and Reservoir was authorized it was believed that the District of Columbia would have no present demand for water stored at this reservoir, so the District of Columbia was called upon by the Secretary of the Army to give assurances that it would, at a future date, contract to pay for its share of the non-Federal portion of the costs. Assurances given by the Board of Commissioners of the District of Columbia were determined by the Secretary of the Army to be insufficient in the absence of a present authority in the District of Columbia to enter into a contract for the payment of its share of the costs. For this reason, bills were introduced in the

90th Congress (H.R. 11158 and H.R. 11183) to authorize the Commissioners to so contract with the Secretary of the Army. Neither of the bills passed.

The Secretary of the Army, by law, determines only the non-Federal portion of a project's costs, and not the proportionate shares to be assumed by local interests responsible therefor; nor does he identify the local interests. In the case of the Bloomington Dam and Reservoir, water users in Maryland, Virginia, West Virginia, and the District of Columbia will benefit, either initially or in the future, from the provisions of storage for water supply, and it is their obligation to determine among themselves the proportionate share of the non-Federal costs to be paid by each.

The Government of the District of Columbia believes it advisable that it have the authority to contract to pay to the United States its equitable share of the non-Federal situation, and as additional reservoirs come costs of not only the Bloomington Dam and Reservoir but also of any other reservoir which may hereafter be authorized for construction by the Congress and from which the District of Columbia water system would derive benefits. Likewise, the District of Columbia should have latitude to work out with the States, their agencies and other competent authorities the respective equitable shares that will equal the total non-Federal costs, and the precise manners in which the respective shares will be paid by the several water users and to the United States. Moreover, as additional users take water from the river the equitable shares of the previous uses could be reduced to reflect the changed into operation some adjustments in equitable shares may be appropriate.

Supplemental water from the Bloomington Reservoir was needed in the summer of 1966 when the flow of the Potomac River was the lowest of record, approaching the total withdrawal of water in the Washington metropolitan area, and some restrictions were placed on the use of water in the Washington metropolitan area. With the increase in population since 1966, and a corresponding increase in water use, it is probable that another drought year will require drastic and extensive restrictions on water use, as was almost the case in July 1969, absent a supplemental flow ffrom Bloomington. Since the Water Supply Act of 1958, as amended, requires contractual commitments for present demand and assurances of payment for future demand before construction may begin on a reservoir that includes water supply storage, such as Bloomington, it seems essential to the well being of the inhabitants of all parts of the Washington metropolitan area that this legislation be enacted.

Although the bill authorizes the District of Columbia to pay its fair share of the non-Federal costs of any such dam, nevertheless it must be recognized that the District's demand for water includes the demand of other jurisdictions in the Washington Metropolitan area which are supplied water through District of Columbia facilities. If the demands of all Washington Metropolitan area jurisdictions increase equally in the future, that part of the increase in demand attributable to the District of Columbia would be in proportion to the increase in the demand of other jurisdictions. Estimates indicate, however, that the District's demand will not increase in the same proportion as the demands of other jurisdictions of the area. For example, for the period between 1965 and 2000 the estimated increase in the District of Columbia water demand is 8 percent; that for the Maryland portion of the Washington metropolitan area, 56 percent; and that for the Virginia portion of the Washington metropolitan area, 36 percent. If the increase in any of the Maryland or Virginia jurisdictions in the Washington metropolitan area is greater proportionately than the increase attributable to the District of Columbia proper, the government of the District of Columbia will find it necessary to charge that jurisdiction receiving water through District facilities an amount which will take into consideration the disproportionate increase in demand in that jurisdiction as compared with the demand in the District.

Because the amounts that would be paid by the District of Columbia under the contracts that would be authorized by section 1 of the draft bill are properly a part of the cost of supplying water to consumers, section 2 of the draft bill specifically provides that such payments shall be made from, as well as any reimbursements being deposited in, the water fund, because existing law restricts use of that fund to "maintenance, management and repair of the system of water distribution" (D.C. Code, sec. 43–1522). And for the reasons set forth in the preceding paragraph, section 2 also specifically authorizes adjustment of charges for water delivered from the District system for use outside the District of Columbia to reflect the portions of the payments made under contracts that would be authorized by section 1 which are equitably attributable to such use outside the District.

The authority which would be granted by the proposed legislation is not, however, without important limitations. The authority to contract may be exercised only with respect to reservoirs whose construction has been authorized by Congress, so that the scope of the draft bill is limited to the same subject as the bills which were before the 90th Congress, until such time as the Congress may act affirmatively by authorizing construction of an additional reservoir that would benefit the District of Columbia. While the draft bill would authorize the District to contract with, for example, the Maryland Potomac Water Authority "with respect to" the District's payment of its equitable share of the cost of Bloomington Dam and Reservoir, this authority, by the terms of the Maryland statute, is limited to the costs of storage for present demand, and could relate only to mutually acceptable methods of determining respective equitable shares.

HISTORY OF LEGISLATION

The legislation authorizing the Commissioner to enter into contracts to pay the District's equitable share of costs for construction of water supply facilities on the Potomac River was submitted to the Senate by the District of Columbia government and introduced October 9, 1969, by Senator Joseph Tydings, chairman of the Senate District Committee.

On December 2, 1969, hearings were held by the full committee at which time representatives of the city government expanded on their need for the legislation. During the hearings testimony was also received from representatives of the U.S. Army Corps of Engineers, which will construct the Bloomington Dam; the Maryland Department of Water Resources; and the Maryland Department of State Planning. All witnesses favored enactment of this legislation, and the committee has been informed that the Bureau of the Budget has no objection to the legislation from the standpoint of the administration's program.

PRACTICE OF PSYCHOLOGY ACT

The Senate proceeded to consider the bill (S. 1626) to regulate the practice of psychology in the District of Columbia which had been reported from the Committee on the District of Columbia with amendments on page 2, line 3, after the word "Columbia.", strike out "The Commissioner may delegate any or all functions assigned to him by this Act to a Board of Psychologist Examiners established by this Act."; on page 4, line 7, after the word "institution," strike out "charitable agency, research laboratory, or business corporation: *Provided*, That the services performed by such an employee are a part of his office or position and are provided only within the confines of the organization or are offered to like organizations." and insert "or research laboratory: *Provided*, That the services performed by such an employee, which services shall not include psychotherapy, are a part of his office or position and are provided only within the confines of the organization or are offered to like organizations."; in line 16, after the word "services," insert "exclusive of psychotherapy,"; on page 5, line 12, after the word "established", insert "businesses or"; in line 15, after the word "with", strike out "the code of ethics of their respective professions" and insert "any code of ethics provided by their respective businesses or professions"; on page 7, line 4, after the word "Commissioner", strike out "shall" and insert "may"; on page 9, after line 22, strike out:

SEC. 10. The Commissioner is authorized to make regulations to carry out the purposes of this Act, and to fix, increase, or decrease fees to be charged for services performed by the District government pursuant to the provisions of this Act, in such amounts as may, in the judgment of the Council, be reasonably necessary to defray the approximate cost of administering this Act.

And, in lieu thereof, insert:

SEC. 10. (a) The District of Columbia Council is authorized to make regulations to carry out the purposes of this Act but may delegate the responsibility to any Board of Psychologist Examiners which may be appointed.

(b) The Commissioner is authorized to fix, increase, or decrease from time to time fees to be charged in such amounts as may be reasonably necessary to defray the approximate cost of administering the provisions of this Act.

On page 11, line 24, after the word "the", strike out the word "Commissioner" and insert "Government of the District of Columbia."; on page 13, line 11, after the word "both.", insert "Prosecutions shall be in the name of the District of Columbia by the Corporation Counsel or one of his assistants."; in line 17, after the word "the", where it appears the first time, strike out "United States Attorney", and insert "Corporation Counsel"; and on page 14, at the beginning of line 10, strike out "psychologist is suing or being sued by a former client or his legal representative, such as an action against a psychologist for malpractice, (2) where the validity of a will, deed, or contract of a client is placed in issue, and (3) where a defendant in a criminal action has raised the defense of mental incapacity."; and insert "psychologist is being sued by a former client or his legal representative, such as an action against a psychologist for malpractice, (2) where the validity of a will or deed of a client is placed in issue, and (3) where the mental capacity of a defendant in a criminal action has been placed in issue."

So as to make the bill read:

SECTION 1. This Act may be cited as the "Practice of Psychology Act."

SEC. 2. The practice of psychology in the District of Columbia is hereby declared to

affect the public health, safety, and welfare, and to be subject to regulation and control in the public interest to protect the public from the practice of psychology by unqualified persons and from unprofessional conduct by persons licensed to practice psychology.

SEC. 3. As used in this Act—

(A) "Commissioner" means the Commissioner of the District of Columbia.

(B) "Person" includes an association, partnership, or corporation, as well as natural persons.

(C) "Accredited college or university" means any college or university which, in the Commissioner's determination, offers either an acceptable full-time resident graduate program of study in psychology leading to the doctoral degree, or a comparable program. In making his determination concerning domestic educational institutions, the Commissioner shall accredit those institutions included in the listings of approved academic institutions published by the United States Office of Education; in determining what foreign educational institutions shall be accredited the Commissioner may take into account the published lists of recognized accrediting agencies and professional associations.

(D) "The practice of psychology" means the rendering of or offering to render to the public for a fee, monetary or otherwise, any service involving the application of established methods and principles of the science and profession of psychology. These principles and methods are concerned with understanding, predicting, and changing behavior, and include, but are not restricted to, the use of counseling and psychotherapy with groups or individuals having adjustment problems in the areas of work, family, school, and personal relationships; measuring, testing, and assessing aptitudes, skills, public opinion attitudes, emotion, personality, and intelligence; teaching, doing research, or lecturing in psychology.

(E) "Psychotherapy" means the use of learning or other pyschological behavior modification methods in a professional relationship to assist a person or persons to modify feelings, attitudes, and behavior which are intellectually, socially, or emotionally maladjustive or ineffectual.

SEC. 4. All persons licensed or certified under this Act shall assist their clients in obtaining professional help for all relevant aspects of the clients' problem that fall outside of the boundaries of the psychologist's competence. All persons so licensed or certified shall make provision for the diagnosis and treatment of relevant medical problems by an appropriate and qualified medical practitioner, and shall, in instances where a medical problem is involved, collaborate effectively with such a medical practitioner. No person licensed or certified under this Act shall administer or prescribe drugs, or perform surgery or any manual or mechanical treatment whatsoever.

SEC. 5. It shall be unlawful for any person to practice or to offer to practice psychology, or to represent himself to be a psychologist, unless he shall first obtain a license or certificate pursuant to this Act: *Provided, however,* That the following categories of persons need not obtain a license:

(A) A person bearing the title of "psychologist" in the employ of any governmental agency, academic institution, or research laboratory: *Provided,* That the services performed by such an employee, which services shall not include psychotherapy, are a part of his office or position and are provided only within the confines of the organization or are offered to like organizations.

(B) Persons providing services, *exclusive of psychotherapy,* to the public through governmental organizations, such as clinics, who are compensated by their employer rather than their clients. Persons coming under the exemptions established by subsections (A) and (B) may offer lecture services to the public for a fee but may not offer other psychological services to the public for a fee without having obtained a license.

(C) A student intern, or resident in psychology, pursuing a course of study or research with an accredited college, university, or training center: *Provided,* That such activities are supervised as part of his course of study, and he is designated by such title as "psychology intern," "psychology trainee," or other title clearly indicating trainee status.

(D) A person not licensed as a psychologist under the provisions of this Act employed by a licensed psychologist to assist in the performance of psychological and other services, other than psychotherapy, if such person works under the supervision of the licensed psychologist who assumes full responsibility for his acts, and if such person is not in any manner held out to the public as a psychologist.

(E) Qualified members of other established *businesses or* professions, recognized by the Commissioner, doing work of a psychological nature consistent with their training and with *any code of ethics provided by their respective businesses or professions: Provided,* That they do not hold themselves out to the public by title or description incorporating the words "psychological," "psychologist," or "psychology," unless licensed under this Act.

(F) A psychologist who is not licensed or certified under the provisions of this Act, but (1) who is licensed or certified under the laws of a State or territory of the United States or of a foreign country or province whose standards in the opinion of the Commissioner were substantially equivalent, at the date of his certification or licensure, to the requirements of this Act; or (2) who meets the requirements of subsections (A) and (B) of section 7; and who is employed or invited by a licensed psychologist who is a resident of or maintains a place of work in the District of Columbia to offer professional services in said District for a total of not more than sixty days in any calendar year without holding a license issued under the Act. Upon arrival in the District of Columbia, such an unlicensed psychologist shall report to the Commissioner with respect to the nature and duration of his professional activities in the District as well as the name of the person who has requested him to render services. A psychologist claiming exemption under the provisions of this section who offers professional services in the District of Columbia for more than twenty days in any calendar year shall file with the Commissioner evidence of his right to such exemption. Upon proof of that right to the satisfaction of the Commissioner, the Commissioner shall enter the name of the applicant in a register kept for that purpose and shall issue to the applicant a certificate in evidence of such registration.

SEC. 6. (A) The Commissioner shall be responsible for reviewing the applications of persons seeking licensure or certification for the practice of psychology in the District of Columbia, for the granting and renewal of such licenses and certificates. for the preparation and administration of oral and written examinations, and for other matters related to the purposes of this Act.

(B) The Commissioner *may* appoint a Board of Psychologist Examiners. Each member of this Board shall be a citizen of the United States, licensed under the provisions of this Act, who shall either be a resident of the District of Columbia or have worked in the District of Columbia for at least two years preceding appointment to the Board. The initial appointees shall be psychologists eligible for licensure under the provisions of this Act. Subsequent appointees shall be persons licensed under the provisions of this Act.

(C) The Commissioner shall maintain: (1) a record of licenses and certificates granted and refused and of licenses and certificates revoked or suspended which record shall be available to the public; and (2) a complete record of all hearings conducted pursuant to section 13(B) in connection with the denial, suspension, or revocation of a license. A transcript of an entry in a record of hearing, properly certified, shall be prima facie evidence of the facts therein stated.

SEC. 7. The Commissioner shall grant a license to practice psychology to each applicant who submits satisfactory proof that—

(A) he is of good moral character;

(B) he holds either (1) a doctoral degree in psychology from an accredited college or university and has completed two years of postgraduate experience acceptable to the Commissioner, such two years not to include terms of internship, or (2) a doctoral degree from an accredited college or university in a field determined by the Commissioner to be related to psychology and has completed two years of postgraduate experience: *Provided,* That his experience and training are considered by the Commissioner to be comparable to the requirements set forth in (B) (1) of this subsection;

(C) he has passed an examination, written or oral or both, the scope and form of which shall be determined by the Commissioner: *Provided,* That at any given examination session all examinations shall be uniform; and

(D) his application has been accompanied by the fees required by the Commissioner.

SEC. 8. Within one year from and after the effective date of this Act, a license shall be issued without examination to any applicant who is of good moral character, who either maintains a residence or office, or participates in psychological activities as determined by the Commissioner, within the District of Columbia, who has submitted an application for license accompanied by the required fee, and who holds—

(A) a doctoral degree in psychology from an accredited college or university or other doctoral degree acecptable to the Commissioner, and has completed at least two years of postgraduate experience not including terms of internship; or

(B) a master's degree in psychology from an accredited college or university, and has engaged in psychological practice acceptable to the Commissioner for at least seven years after the attainment of his highest degree.

SEC. 9. The Commissioner may, in his discretion, grant a license without examination: (1) to any person who at the time of application is licensed or certified under the laws of a State or territory of the United States, or of a foreign country or province with standards which, in the opinion of the Commissioner, were substantially equivalent at the date of such certification or licensure to the requirements of this Act, or (2) to any person who has been certified by a national examining board: *Provided,* That the Commissioner determines that the examination given by the national examining board was as effective for the testing of professional competence as that required in the District of Columbia.

SEC. 10. (a) The District of Columbia Council is authorized to make regulations to carry out the purposes of this Act but may delegate the responsibility to any Board of Psychologist Examiners which may be appointed.

(b) The Commissioner is authorized to fix, increase, or decrease from time to time fees to be charged in such amounts as may be reasonably necessary to defray the approximate cost of administering the provisions of this Act.

SEC. 11. Every person licensed or certified to practice psychology who desires to continue the practice of psychology shall annually pay the required fee for which there will be issued a renewal of licensure or certificate. The Commissioner shall provide a written reminder of the renewal date to every person licensed or registered under this Act, which reminder shall be mailed at least one month

in advance of such date. A license or certificate not properly renewed as herein provided shall lapse. The Commissioner shall have the right to reinstate a lapsed license or certificate upon payment of the renewal fee plus a penalty fee. A psychologist who wishes to place his license upon an inactive status may do so by submitting notice thereof to the Commissioner. Such a psychologist may reactivate his license by payment of the renewal fee herein required unless his license has been inactive for a period exceeding five years, in which case he will be required to furnish the Commissioner evidence of his competence to continue or resume the practice of psychology.

SEC. 12. The Commissioner may refuse, revoke, or suspend licensure or certification if the person applying or the person licensed or certified be—

(A) convicted of a crime involving moral turpitude;

(B) found to be using any drug or any alcoholic beverage to an extent or in a manner dangerous to himself, any other person, or the public, or to an extent that such use impairs his ability to perform the work of a psychologist with safety to the public;

(C) convicted of a violation of this Act as provided in section 14;

(D) determined to be a mental incompetent by a court with proper jurisdiction; or

(E) found to have committed a violation of any provision of this Act or of standards for the ethical practice of psychology to be established in regulations issued by the Government of the District of Columbia.

SEC. 13. (A) Proceeding leading toward the suspension or revocation of a license or certificate shall be begun by petition, setting forth good cause therefor, filed with the Commissioner and served on the respondent. The Commissioner may determine whether a license or certificate shall be suspended or revoked, and if it is to be suspended the duration of such suspension and the conditions under which such suspension shall terminate. Revocation of a license shall not preclude the issuance of a new license or registration after the passage of at least five years.

(B) Before the revoking, suspending, or refusing to issue a license or certificate for any cause under the provisions of this Act, the Commissioner shall give the person whose right to practice psychology is challenged an opportunity to be heard in person or by attorney, and to produce witnesses on his behalf. After such hearing, should the Commissioner decide to refuse, revoke, or suspend licensure or certification, he shall set forth in writing his reasons for so doing, and shall include detailed findings of fact.

(C) Any person aggrieved by a decision of the Commissioner under subsection (B) of this section may, within thirty days after receiving notice thereof, seek review of said decision in the District of Columbia Court of Appeals. Such review shall be subject to appeal to the United States Court of Appeals for the District of Columbia Circuit.

(D) In hearings conducted pursuant to subsection (B) of this section, the attendance and testimony of witnesses may be compelled by subpena. Any person refusing to respond to such a subpena shall be guilty of contempt of court.

SEC. 14. Any person who shall practice psychology, as defined in this Act, without having a valid, unexpired, unrevoked, and unsuspended license or certificate of registration issued as provided in this Act, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than $500, or confined in jail for not more than six months, or both. Prosecutions shall be in the name of the District of Columbia by the Corporation Counsel or one of his assistants.

SEC. 15. The unlawful practice of psychology, as defined in this Act, may be enjoined by the United States District Court for the District of Columbia on petition by the Corporation Counsel for the District of Columbia, upon a finding that the person sought to be enjoined has committed a violation of the provisions of this Act. In any such proceeding it shall not be necessary to show that any person is individually injured by the actions complained of. If the respondent is found guilty of the unlawful practice of psychology, the court shall enjoin him from so practicing unless and until he has been duly licensed. The remedy by injunction herein given may be imposed in addition to, or in lieu of, criminal prosecution and punishment as provided in section 14 of this Act.

SEC. 16. It shall be the duty of the Commissioner of the District of Columbia to enforce the provisions of this Act.

SEC. 17. In legal proceedings, no psychologist shall disclose any information he has acquired from a person consulting him in his professional capacity without the consent of such person, except only in legal actions (1) in which a psychologist is being sued by a former client or his legal representative, such as an action against a psychologist for malpractice, (2) where the validity of a will or deed of a client is placed in issue, and (3) where the mental capacity of a defendant in a criminal action has been placed in issue.

SEC. 18. There is hereby authorized to be appropriated out of the revenue of the District of Columbia such sums as may be necessary to pay the expenses of administering and carrying out the purposes of this Act.

SEC. 19. If any section of this Act, or any part thereof, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of any section or part thereof.

SEC. 20. This Act shall become effective ninety days after the date of its enactment.

The amendments were agreed to.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 91–626), explaining the purposes of the measure.

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

PURPOSE OF THE BILL

The purpose of the bill is to protect the public from unqualified and unethical practitioners of psychology in the District of Columbia. Under present law, anyone can advertise himself as a psychologist and offer psychological services to the public.

Forty States now have laws which require the certification or licensure of psychologists. The fact that Maryland and Virginia have such legislation while the District does not poses the added danger that the District will become a haven for unqualified persons alleging that they are practicing psychology.

LIST OF STATES AND PROVINCES WITH LAWS REGULATING THE PRACTICE OF PSYCHOLOGY

(Year of approval)

Alabama (1963).
Alaska (1967).
Arizona (1965).
Arkansas (1955).
California (1957).
Colorado (1961).
Connecticut (1945).
Delaware (1962).
Florida (1961).
Georgia (1951).
Hawaii (1967).
Idaho (1963).
Illinois (1963).
Indiana (1969).
Kansas (1967).
Kentucky (1948).
Louisiana (1964).
Maine (1953).
Maryland (1957).
Michigan (1959).
Minnesota (1951).
Mississippi (1966).
Nebraska (1967).
Nevada (1963).
New Hampshire (1957).
New Jersey (1966).
New Mexico (1963).
New York (1956).
North Carolina (1967).
North Dakota (1967).
Oklahoma (1965).
Oregon (1963).
Rhode Island (1969).
South Carolina (1968).
Tennessee (1953).
Texas (1969).
Utah (1959).
Virginia (1946).
Washington (1955).
Wyoming (1965).

Over the years, the American Psychological Association (APA) has developed a set of recommendations to serve as guidelines in the drafting of effective legislation to regulate the practice of psychology. S. 1626 follows those guidelines closely and is supported by the APA.

NEED FOR THE LEGISLATION

Your committee has been advised that there have been incidents in which the lives and well-being of residents in the Nation's Capital have been adversely affected by fraudulent persons representing themselves as psychologists. This is happening at a time when the profession of psychology is clearly expanding and is more and more in demand by citizens of this city and elsewhere in the country. Therefore, your committee believes that the bill incorporates the appropriate and necessary steps which must be taken promptly to regulate the quality of psychological services by regulating the practice of psychology as existing law already requires the regulation of other professions within the city.

BACKGROUND

For several years, District psychologists have participated in a voluntary, nonstatutory certification program. Both because it is a voluntary program and because it involves only certification and not licensing, it offers little protection for the public. At the urging of local police officials, the District of Columbia Psychological Association initiated an effort in 1965 to have passed a psychology licensing bill.

The bill was introduced in the Senate in the 89th Congress; however, no hearings were held. In May of 1967, the bill was reintroduced and hearings held before the Subcommittee on Public Health, Education, Welfare, and Safety of the Senate Committee on the District of Columbia. Five amendments recommended by the District government and by local psychiatric associations were accepted by the District of Columbia Psychological Association. In this form the bill (S. 1864) was unanimously approved by the Senate in April 1968.

Hearings were held on the House counterpart of the bill (H.R. 10407) in May and June 1968 before Subcommittee No. 5 of the House District Committee. The Washington Psychiatric Society and the Washington Psychoanalytic Society opposed passage of the bill; the District government, the District of Columbia Psychological Association, and the American Psychological Association supported it. The bill was not reported out of committee prior to the adjournment of the 90th Congress.

Based on recommendations offered during hearings in the 90th Congress, the legislation was refined and reintroduced in the 91st Congress by Senator Bible (S. 1626) and in the House by Congressman McMillan (H.R. 9181).

Hearings were held by the Senate Subcommittee on Public Health, Education, Welfare, and Safety on June 26, 1969, at which time the bill, as amended, was endorsed by the District government, the District of Columbia, and the American Psychological Associations, the Washington Psychiatric Society and the Washington Psychoanalytic Society.

The Medical Society of the District of Columbia proposed an amendment which would require psychologists who practice psychotherapy to have the direct supervision of a medical doctor. It was the committee's view, shared by the District Health Department and the psychoanlysts who testified, that the bill provides adequate safeguards in this regard and that any further restriction would be burdensome and unnecessary.

MESSAGE FROM THE HOUSE— ENROLLED BILLS SIGNED

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

S. 2577. An act to lower interest rates and fight inflation; to help housing, small business, and employment; to increase the availability of mortgage credit; and for other purposes.

S. 3016. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes;

H.R. 9233. An act to amend title 5, United States Code, to promote the efficient and effective use of the revolving fund of the Civil Service Commission in connection with certain functions of the commission, and for other purposes; and

H.R. 14794. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending June 30, 1970, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

AMENDMENT OF MERCHANT MARINE ACT, 1936

A letter from the Acting Secretary of Commerce, transmitting a draft of proposed legislation to amend the Merchant Marine Act, 1936 (with an accompanying paper); to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on effectiveness and administration of the comprehensive health services program under title II of the Economic Opportunity Act of 1964, Chicago, Ill. Office of Economic Opportunity, dated December 19, 1969 (with an accompanying report); to the Committee on Government Operations.

DRUG IDENTIFICATION ACT OF 1969

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Federal Food, Drug and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

PETITIONS AND MEMORIALS

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

By the ACTING PRESIDENT pro tempore:

A joint resolution of the Legislature of the State of Wisconsin; to the Committee on Public Works:

"1969 SENATE JOINT RESOLUTION 76, STATE OF WISCONSIN

"Memorializing Congress to take action to prevent the interstate Pecatonica River from flooding annually in the plains of southwestern Wisconsin

"Whereas, the Pecatonica River spills out of its banks each spring, flooding Darlington, Wisconsin and surrounding communities, halting highway and municipal traffic, damaging the goods and business of numerous merchants, injuring crops and causing general havoc in the area; and

"Whereas, again this year a flood occurred and the citizens of this area had to endure yet another year of financial and domestic hardship because of these floods; and

"Whereas, the Pecatonica is an interstate river, traversing northern Illinois as well as southern Wisconsin; now, therefore, be it

"Resolved by the senate, the assembly concurring, That the legislature of the state of Wisconsin, respectfully requests the United States Congress to take action to prevent the Pecatonica River from flooding annually; and, be it further

"Resolved, That the legislature urges the construction of retaining dams and other watershed programs for flood control because these projects would be beneficial to interstate commerce and the growth of our nation's economy; and, be it further

"Resolved, That duly attested copies of this resolution be transmitted to the Secretary of the U.S. Senate, to the Chief Clerk of the U.S. House of Representatives and to every member of the Congressional delegation from Wisconsin."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MAGNUSON, from the Committee on Commerce, with an amendment:

S. 1653. A bill to amend the Interstate Commerce Act, with respect to recovery of a reasonable attorney's fee in case of successful maintenance of an action for recovery of damages sustained in transportation of property (Rept. No. 91–631).

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

S. 1872. A bill to repeal the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950) (Rept. No. 91–632).

URBAN MASS TRANSPORTATION ACT OF 1969—REPORT OF A COMMITTEE—INDIVIDUAL VIEWS (S. REPT. NO. 91–633)

Mr. WILLIAMS of New Jersey. Mr. President, from the Committee on Banking and Currency, I report favorably, with amendments, the bill (S. 3154) to provide long-term financing for expanded urban public transportation programs, and for other purposes. I ask unanimous consent that the report be printed, together with the individual views of the Senator from Wisconsin (Mr. PROXMIRE), the Senator from California (Mr. CRANSTON), and the Senator from New York (Mr. GOODELL).

The PRESIDING OFFICER. The report will be received and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from New Jersey.

EXECUTIVE REPORTS OF A COMMITTEE

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably three flag and general officer nominations in the Army and Navy. 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:

Chaplain (colonel) Gerhardt Wilfred Hyatt, Army of the United States (lieutenant colonel, U.S. Army), for temporary appointment in the Army of the United States to the grade of brigadier general;

Vice Adm. Allen M. Shinn, U.S. Navy, for appointment to the grade of vice admiral, when retired; and

Rear Adm. Frederic A. Bardshar, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving.

Mr. STENNIS. Mr. President, in addition I report favorably 1941 promotions in the Army in the grade of lieutenant colonel and below; 4358 appointments and promotions in the Navy in the grade of captain and below; and 100 appointments in the Marine Corps in the grade of second lieutenant. 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:

William J. Nelson, and sundry other officers, for promotion in the Regular Army of the United States;

David G. Adams, and sundry other Naval Reserve Officers Training Corps candidates, for permanent assignment in the Navy;

Joseph H. Adkins, and sundry other Naval enlisted scientific education program candidates, for permanent assignment in the Navy;

Don S. Angelo, and sundry other Naval Reserve officers, for assignment in the Navy;

Frank Grabarits and Charles T. Walter, Jr., civilian college graduates, for permanent assignment in the Navy;

Michael R. Antonelli, and sundry other Naval Reserve Officers Training Corps officers, for permanent assignment in the Marine Corps; and

Kenneth Dean Aanerud, and sundry other officers, for promotion in the Navy.

BILLS INTRODUCED

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

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

S. 3287. A bill to amend the Merchant Marine Act, 1936; to the Committee on Commerce.

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

By Mr. TYDINGS:

S. 3288. A bill for the relief of Elena P. Muya; and

S. 3289. A bill to encourage and help implement improvements in the judicial machinery of our State and local courts by creating an Institute for Judicial Studies and

Assistance, the purpose of which shall be to make grants to State and local courts and nonprofit organizations to carry out the objectives of the Act and to serve as a reservoir of up-to-date information on court management and organization; to the Committee on the Judiciary.

(The remarks of Mr. TYDINGS when he introduced the bill (S. 3289) appear later in the RECORD under the appropriate heading.)

By Mr. McCLELLAN (for Mr. EASTLAND):

S. 3290. A bill for the relief of Dr. G. C. Gupta; to the Committee on the Judiciary.

By Mr. FANNIN:

S. 3291. A bill to amend the Act of August 9, 1955, to authorize longer term leases of Indian lands on the Yavapai-Prescott Community Reservation in Arizona; to the Committee on Interior and Insular Affairs.

By Mr. FANNIN (for himself, Mr. GOLDWATER, Mr. CRANSTON, and Mr. MURPHY):

S. 3292. A bill to render the assertion of land claims by the United States based upon accretion or avulsion subject to legal and equitable defenses to which private persons asserting such claims would be subject; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 3293. A bill to amend title 23, United States Code, to provide for use of highway funds for public transportation; to the Committee on Public Works.

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

By Mr. MONDALE:

S. 3294. A bill for the relief of Shie Tong Chu; to the Committee on the Judiciary.

By Mr. NELSON:

S. 3295. A bill to amend sections 201 (s) and 409 of the Federal Food, Drug, and Cosmetic Act, as amended, relating to food additives; to the Committee on Labor and Public Welfare.

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

By Mr. WILLIAMS of New Jersey:

S. 3296. A bill for the relief of Armet Lawson-FitzGerrald Dyer; to the Committee on the Judiciary.

By Mr. DOMINICK (for himself, Mr. JAVITS, and Mr. SMITH of Illinois):

S. 3297. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes; to the Committee on Labor and Public Welfare.

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

By Mr. KENNEDY:

S. 3298. A bill to protect consumers and to assist the commercial fishing industry by providing for the inspection of establishments processing fish and fishery products in commerce, and to amend the Fish and Wildlife Act of 1956 to provide technical and financial assistance to the commercial fishing industry in meeting such requirements; to the Committee on Commerce.

S. 3299. A bill to amend the Social Security Act to provide a 15-percent across-the-board increase in monthly benefits with a minimum primary insurance amount of $100; to the Committee on Finance.

S. 3300. A bill to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site, and for other purposes; to the Committee on Interior and Insular Affairs.

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

By Mr. HARRIS:

S. 3301. A bill to amend title 5, United States Code, to include as creditable service for civil service retirement purposes service as an enrollee of the Civilian Conservation Corps, and for other purposes; to the Committee on Post Office and Civil Service.

S. 3289—INTRODUCTION OF THE NATIONAL COURT ASSISTANCE ACT

Mr. TYDINGS. Mr. President, one of the crucial issues of our time is whether our federal system of government has the will and the capacity to contain and eventually bring to a manageable level the burgeoning crime rate which is ravaging our cities. Time and again our national blue ribbon advisory commissions have advised us that in order to adequately meet this challenge, each of the principal components of our law-enforcement system—the police, the courts, and the correction institutions—rapidly must undergo major reform. Otherwise, we have been warned, we may unhappily find ourselves living in a garrison state where security from the threat of unrelenting criminal violence represents the predominant community interest.

The recently published staff report to the National Commission on the Causes and Prevention of Violence has observed that—

> Violence in America, some boldly assert, may be directly associated with poor court management, particularly in trial courts hearing criminal charges.

The Commission, itself, has asserted that far too many of our criminal courts are poorly managed, seriously backlogged, and operating more like turnstiles than tribunals. Others have charged that our criminal court system is actually abetting the very crime wave it is intended to eliminate.

Charles Moylan, the State's attorney of Baltimore City and one who is eminently qualified to speak on this subject, has recently written:

> The law and order crisis has moved out of the streets and into the courthouse. . . . The criminal courts and the prosecuting officers have for decades been the neglected and forgotten children of the law enforcement system. We now represent the bottleneck that could cause that system to collapse.

Perhaps most disturbing is the fact that this crisis is progressively getting worse.

The most obvious and corrosive manifestation of court obsolescence and mismanagement are excessive congestion and trial delay. It is true that the evil of judicial delay is nothing new. History tells us that as early as the fifth century B.C., the judicial calendars of Greece were so fraught with congestion that the regular magistrates were unable to cope with it. And we might recall that at the meadows of Runnymede in 13th century England, the barons compelled King John to pledge as part of the Magna Carta that, "we will not delay justice to any one."

One familiar with the archaic judicial machinery we employ today might surmise that it is more befitting the problems of ancient Greece or medieval England than our modern society. However, today, in the face of the veritable flood of criminal cases which are inundating our courts, our law enforcement system can ill afford the very real delays and backlogs engendered by inefficient court practices.

Judicial delay obstructs law enforcement in multiple ways. First, it serves to increase the time during which additional crimes may be committed by criminals who remain at liberty while awaiting their trials. For instance, in the District of Columbia one out of every three armed robbery suspects released on bail commits another crime. Moreover, about 70 percent of the offenses committed on bail occur more than 30 days after release. Thus, it would appear that swifter justice could directly reduce criminal activity.

Next, court logjams and delays clearly increase a criminal's chances that either he will go completely unpunished for his offense or he will receive a punishment which is not commensurate with the seriousness of his crime. Delay works to deteriorate evidence, dull the memories of important witnesses and diminish their interest in seeing justice done, as its cost to them in time, effort and anxiety increases. The prosecutor, seeing his case gradually disintegrating and feeling the pressure of an increased workload, often dismisses the case entirely or accepts a plea of guilty to a lesser offense. This helps explain why nearly half of those arrested for crime have the charges against them dismissed, and why the cases of over 90 percent of those not dismissed are resolved by a plea of guilty.

Finally, the inability of our criminal courts to expeditiously try and swiftly punish the criminal offender diminishes the public's confidence in the criminal justice system as a whole. It corrodes the law's deterrent effect by demonstrating that punishment for criminal violations is not swift and certain but slow and faltering. To those who consider careers in criminality, the percentages begin to appear more favorable as the certainty of retribution for criminal misconduct becomes increasingly less demonstrable. As the recently published staff report to the National Commission on the Causes and Prevention of Violence has stated:

> Delays resulting from poor court management . . . help to create conditions of disrespect for law and legal institutions, which in turn can increase the chances for violence in our society.

The President's Commission on Law Enforcement has stated that the period between arrest of a person accused of committing a serious crime to the trial should be no more than 4 months. Few of our courts are satisfying this timetable. In our Federal courts, almost 5,000 criminal cases have been pending for more than 1 year and over 2,200 of these have been awaiting trial for more than 2 years. According to the U.S. Judicial Conference, this nationwide backlog in our Federal criminal courts has produced a "judicial emergency."

The situation in many of our State criminal courts is equally alarming. In many States 1½ years are required to process litigated cases from arrest through trial to final disposition on appeal. And in some local courts, criminal defendants wait even longer. For instance, in the parish of New Orleans criminal defendants have waited as long as 2 years for trial.

The problem of lagging justice is plaguing our civil courts as well, and serving to further breed disrespect for the law. Because many more of our citizens are involved in these courts, their

management deficiencies are especially critical and in need of tremendous attention with a view toward comprehensive rehabilitation.

Peaceful settlement of disputes in an appropriate forum is a basic concept of our democratic process. Indeed, our trial courts constitute an important part of the domestic peacekeeping operations of government. If our citizens lose faith in the courts as a means of settling their disputes and instead seek alternative answers for redress, our social order will be weakened, if not destroyed. Indeed, our urban disorders, in their own cryptic way, may have expressed a lack of confidence in the ability or willingness of our courts and other legal institutions to redress those legitimate grievances which helped seed the violence.

Time and again I have cited statistics to illustrate the dimensions of lagging justice in our civil courts. Instances of delays of 2, 3, or even 5 years between the time when a case is filed and the time when it is finally brought to trial are common. Today, the average delay for personal injury suits in civil courts in major metropolitan areas is 22.1 months. In the Circuit Court of Chicago the time from when a personal injury suit is filed to the trial is 59.6 months; in the Supreme Court of Bronx, N.Y., 58.9 months; in the Court of Common Pleas of Philadelphia, 46.7 months; in the Superior Court of Suffolk, Boston, 44 months; in the Superior Court of San Francisco, 30.7 months.

The full catalog of the depressing details of lagging justice would merely clutter the record. Suffice it to say that the problem is not confined to one area or limited section of the country. It truly is a national problem demanding national attention, and the need for positive action is immediate.

To further the development and adoption of improved judicial administration of our Federal courts, 2 years ago I supported legislation which created the Federal Judicial Center. The Subcommittee on Improvements in Judicial Machinery, of which I am chairman, held detailed hearings on this authorization legislation and reported favorably on the proposal leading to swift and positive congressional action on it.

The recent Eisenhower Commission statement on violence and law enforcement called the creation of this judicial institute one of the bright spots on the generally bleak judicial picture. In the words of the Commission report, "the new Federal Judicial Center has initiated several innovative administrative and managerial projects which offer great promise for reduction of court backlogs and the shortening of time periods to trial." In fact, the first Director of the Center, Justice Tom Clark, has capped a fine career of public service by putting the Center on the sound course of effective judicial innovation.

Our State and local courts are urgently in need of similar direction and guidance. It is time this need was met by legislative action, and I am today reintroducing a bill entitled the National Court Assistance Act which will provide Federal seed money to State and local court systems that want to modernize their ways. This legislation, if enacted, can benefit our State and local courts even more than the Federal Judicial Center has aided our Federal courts.

I initially introduced this proposal in the 89th Congress and again during the 90th Congress at which time the Subcommittee on Improvements in Judicial Machinery held extensive hearings on the matter.

I believe this bill represents an important anticrime proposal. In this regard, it is especially relevant to note that the measure has recently received the firm support of the staff of the Eisenhower Commission on the Causes and Prevention of Violence. In its October 1969 report to the Commission, that staff characterized the proposal as "farsighted" and "framed in the great tradition of American reform." The proposal has also won the recent acclaim of an eminent legal scholar and lawyer, John Frank in his book "American Law: The Case for Radical Reform"—see page 58.

The National Court Assistance Act has two main features. First, it establishes a grant-in-aid program to encourage and financially assist the modernization aid improvement of judicial machinery in our State and local courts. Second, it serves to create a national reservoir of up-to-date information on court management and organization. To direct these activities, the proposal creates an Institute for Judicial Studies and Assistance.

Under the grant-in-aid program, our State and local courts could obtain financial aid to study and evaluate their judicial systems, the end of which would be to determine what organizational and administrative changes are necessary to achieve a maximum utilization of available manpower with a minimum expenditure of time and money. Part of this process of self-evaluation can be a utilization of management consultants and other experts who can bring their knowledge to bear upon the problems of court administration. Although judges and other court personnel rarely have administrative training, our courts have been hesitant to make use of expertise in meeting problems of judicial administration. Federal assistance would encourage judges to overcome that hesitancy. Grants would be made to help implement the recommendations resulting from these studies and evaluations.

Illustrative of the benefits which courts have derived from modern analytic studies of their judicial organization and machinery is the accomplishments of the District of Columbia's Committee on Administration of Justice. Under the enlightened direction of, at first, Judge Gerhard Gesell, and, more recently and extendedly, Newell Ellison of the District of Columbia Bar, and with a fine young man, David Saari, as executive director, this committee, with the aid of private funds, began to study the District of Columbia court system in April 1968. The committee has come forth with a number of careful studies of the operation of the courts. As studies have progressed, the committee has made numerous suggestions for improving the courts. One of their principle suggestions was the creation of an individual calendar system to handle criminal cases in the U.S. District Court for the District of Columbia. Although that system has been in effect for only a few months, results have been gratifying and great strides are being made to reduce the critical backlog of criminal cases.

In addition to providing the type of help which has benefited the D.C. courts, grants will also be used to develop programs for judges designed to educate them in modern techniques of judicial administration and to establish in accredited universities, programs of instruction in court administration and management. Thus, the bill I introduce today can be of direct aid to our State and local judiciaries in the fulfillment of their administrative responsibilities.

The Institute for Judicial Studies and Assistance would also serve as a much needed central clearinghouse of information about new methods that have been tested in individual courts. It would collect, evaluate, publish, and disseminate materials and other data relating to studies, programs and projects involving court organization and management. Thus, for example, what has been successfully accomplished in Pittsburgh, and the techniques employed, could be made available to other court systems with similar problems. The Institute could provide advice on the most suitable statistical and data collection systems for a particular court. There is no such service today. It also may be desirable to have the Institute serve as a computer center. Many courts own computers to process statistics and records, but the Institute could perform this service for them at a nominal cost.

Mr. President, some have expressed concerned that the bill invites encroachment by the Federal Government upon the autonomy of State and local courts. I too am deeply concerned with preserving the autonomy and vigor of State and local courts, and I deplore the intrusion of the Federal Government into the domain of State government. It has long been my opinion that the primary reason the Federal Government has moved into many areas that heretofore have been exclusively within the province of the states is that the latter, generally speaking, have not been sensitive to the demands of today's society, and have failed to meet modern needs with modern government. If we are to stem the entrance of the Federal Government into areas where it cannot operate as efficiently as State and municipal governments it is essential to revitalize local government and make it equal to the task that must be performed. The National Court Assistance Act is a means to stimulate judicial reform at a local level by encouraging State and local courts to reevaluate the way they deal with their judicial problems, and to find and implement up-to-date solutions. Thus, the act is intended to help State and municipal courts help themselves, thereby obviating any pressure for Federal involvement in matters of local justice. It would strengthen, not weaken, our system of creative federalism.

Because I share the concern of those who oppose unnecessary Federal intervention in local affairs, I have placed in the act specific provisions to protect the independence and autonomy of State and local courts. To this end, section 641

provides that the activities and policies of the Institute for Judicial Studies and Assistance will be supervised for the most part by State court officials. The Board will be composed of two active State appellate judges, two active State trial judges, two State court administrative officers, and one attorney engaged in the private practice of law. No two members may be residents of the same State and no more than four members may bear allegiance to the same political party.

In addition, section 646(b) of the act provides that the financial resources of the act can be used only with the approval of the highest judicial authority of the State involved.

The use of the highest judicial authority of the State as the approving authority under this section is based upon the recommendation of Judge G. Joseph Tauro, the eminent chief justice of the Superior Court of Massachusetts. However, others have suggested that this authority should remain with the judge of the court directly involved. I believe that this issue would benefit from further hearings and pending the recital of the views of other State and local judges, I am reserving final judgment on this matter.

Finally, section 647 specifically prohibits the Institute from exerting any control or influence over State or local courts. These provisions, taken together, are meant to assure that the initiative for implementing reforms remains with the judges of the State and local courts.

Support for the enactment of the National Court Assistance Act has come from many quarters. In addition to the endorsement by the staff of the National Commission on the Causes and Prevention of Violence, the proposal has been approved by the American Bar Association Section on Judicial Administration and by the National Conference of State Trial Judges.

Mr. President, I believe that the measure which I now introduce will encourage and enable State and local governments to make an all-out effort to improve their judicial systems. I ask that the bill be printed in the RECORD at this point.

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

The bill (S. 3289) to encourage and help implement improvements in the judicial machinery of our State and local courts by creating an Institute for Judicial Studies and Assistance, the purpose of which shall be to make grants to State and local courts and nonprofit organizations to carry out the objectives of the act and to serve as a reservoir of up-to-date information on court management and organization introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

S. 3289

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, this Act, with the following table of contents, may be cited as "The National Court Assistance Act."

SECTION 1. Title 28, United States Code is amended by inserting, immediately following chapter 43, a new chapter as follows:

"CHAPTER 44.—INSTITUTE FOR JUDICIAL STUDIES AND ASSISTANCE

"Sec.
"640. Institute for Judicial Studies and Assistance.
"641. Board; composition, selection, tenure of members.
"642. Meetings; conduct of business, compensation.
"643. Powers of the board.
"644. Director and the staff.
"645. Retirement; employee benefits.
"646. Procedure for obtaining grants.
"647. Approval of Chief Judge.
"648. Annual Report.

"§ 640. Institute for Judicial Studies and Assistance

"(a) There is hereby established an Institute for Judicial Studies and Assistance whose purpose it shall be to further the adoption and development of improvements in the organization, procedure, and administration of local and state courts.

"§ 641. Board; Composition, Selection, Tenure of Members

"(a) The activities of the Institute shall be supervised by a Board which shall have final responsibility for establishing Institute policies, and shall, except as otherwise provided, exercise the authority granted to the Institute.

"(b) The Board shall be composed of:
"(1) two active state appellate judges;
"(2) two active state trial judges;
"(3) two state court administrative officers;
"(4) one attorney engaged in the private practice of law.

"(c) The members of the Board shall be appointed by the President who, in making such appointments shall give due consideration to recommendations and endorsements from professional societies and organizations concerned with judicial administration and management techniques, including the American Bar Association, the American Society for Public Administration, the Association of American Law Schools, the American Judicature Society, the Institute of Judicial Administration, the Conference of Chief Justices, the National Conference of Court Administrative Officers, the National Conference of Metropolitan Courts, the National Conference of State Trial Judges, and the North American Judges Association.

"(d) No two members of the Board shall be residents of the same state and no more than four members of the Board shall be members of the same political party.

"(e) The members of the Board shall be appointed for terms of three years; except that the terms of two of the members first taking office shall expire, as designated by the President at the time of appointment, at the end of one year, and the terms of two other members of the Board first taking office shall expire, as designated by the President at the time of the appointment, at the end of two years. Members shall be eligible for reappointment to one full term of office.

"(f) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve for the remainder of that term and shall be eligible for reappointment to one full term of office.

"(g) The President shall designate one of the members as Chairman who shall serve as Chairman at the pleasure of the President.

"§ 642. Meetings; conduct of business; compensation

"(a) Regular meetings of the Board shall be held semi-annually. Special meetings shall be held from time to time upon the call of the Chairman, acting at his own discretion or pursuant to the petition of any five members.

"(b) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of the simple majority of the members present and voting.

"(c) Members of the Board shall receive compensation at the rate of $75 a day while engaged in the actual performance of duties vested in the Board, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties, so long as consistent with state law.

"§ 643. Powers of the Board

"(a) In carrying out the purpose of the Institute, the Board is authorized:

"(1) to conduct or to cause to be conducted studies and evaluations of local and state court systems, to make recommendations for organizational, procedural, and administrative improvements of such systems, and to contract with public or private agencies for the purpose of having such agencies assist it in the exercise of its authority under this paragraph;

"(2) to conduct or cause to be conducted seminars and other educational programs for judges and personnel of local and state courts;

"(3) to collect, evaluate, publish, and disseminate information, materials, and other data relating to studies, programs, and projects conducted or carried out under this chapter;

"(4) to cooperate with and render technical assistance to federal, state, local or other public or private agencies; and

"(5) to accept, in its discretion, gifts and other donations to be used in carrying out the purpose of the Institute.

"(b) To assist it in carrying out the purpose of the Institute, the Board is authorized to make grants to local or state courts or to public or private nonprofit organizations for the following purposes:

"(1) to study and evaluate local and state court systems, and to prepare recommendations for organizational, procedural, and administrative improvements of such systems;

"(2) to present seminars and other education programs for judges and personnel of local and state courts;

"(3) to establish in accredited universities and colleges programs of instruction in court administration and management;

"(4) to implement organizational, procedural, and administrative improvements of local and state court systems recommended as a result of studies conducted under this chapter;

"(5) for such other purposes, consistent with the purposes of this chapter, as it shall determine necessary or desirable in carrying out the purpose of the Institute: *Provided,* that no such grant or part thereof be used for the construction, improvement, or alteration of buildings, or for the payments of salaires of judges or court personnel on a continuing basis.

"644. Director and the Staff

"(a) The Board shall appoint and fix the duties of the Director of the Institute who shall serve at the pleasure of the Board.

"(b) The Director's per annum compensation shall be in the same amount as a federal district court judge's compensation. His appointment and salary shall not be subject to the provisions of title 5, United States Code, governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classifications and General Schedule pay rates.

"(c) The Director shall appoint and fix the compensation of such additional professional personnel as the Board may deem necessary, without regard to the provisions of title 5, United States Code, governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classifications and General Schedule pay rates: *Provided, however,* That the compensation of any person appointed under this subsection shall not ex-

ceed the annual rate of basic pay of level V of the Executive Schedule pay rates, section 5316, title 5, United States Code: *And provided further,* That the salary of a reemployed annuitant under the Civil Service Retirement Act shall be adjusted pursuant to the provisions of section 8344, title 5, United States Code.

"(d) The Director shall appoint and fix the compensation of such secretarial and clerical personnel as he may deem necessary, subject to the provisions of title 5, United States Code, governing appointments in competitive service and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classifications and General Schedule pay rates.

"(e) The Director may procure personal services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the daily equivalent of the highest rate payable under General Schedule pay rates, section 5332, title 5, United States Code, unless such higher rate is approved by the Board.

"(f) The Director is authorized to incur necessary travel and other miscellaneous expenses incident to the Operation of the Institute.

"§ 645. Retirement; employee benefits

"(a) A Director of the Institute who attains the age of seventy years shall be retired from that office.

"(b) The Director, the professional staff, and the clerical and secretarial employees of the Institute for Judicial Studies and Assistance shall be deemed to be officers and employees of the judicial branch of the United States Government within the meaning of subchapter III of chapter 83 (relating to civil service retirement), chapter 87 (relating to Federal employees life insurance program), and chapter 89 (relating to Federal employees health benefits program), to title 5, United States Code. *Provided, however,* That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within six months after the date on which he takes office, may waive coverage under subchapter III of chapter 83 of title 5, United States Code (relating to civil service retirement), and elect coverage under the retirement and disability provisions of this section: *And provided further,* That upon his nonretirement separation from the Institute, such waiver and election shall not operate to foreclose to the Director such opportunity as the law may provide to secure civil service retirement credit for service as Director by depositing with interest the amount required by section 8334 of title 5, United States Code.

"(c) Upon the retirement of a Director who has elected coverage under this section and who has served at least fifteen years and attained the age of sixty-five years the Director of the Administrative Office of the United States Courts shall pay him an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement.

"Upon the retirement of a Director who has elected coverage under this section and who has served at least ten years, but who is not eligible to receive an annuity under the first paragraph of this subsection, the Administrative Office of the United States Courts shall pay him an annuity for life equal to that proportion of 80 per centum of the salary of the office at the time of his retirement that the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of sixty-five at the time of separation from service.

"(d) A Director who has elected coverage under this section and who becomes permanently disabled to perform the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement if he has served at least fifteen years, or equal to that proportion of 80 per centum of such salary that the aggregate number of years of his service bears to fifteen if he has served less than fifteen years, but in no event less than 50 per centum of such salary.

"(e) For the purpose of this section, 'service' means service, whether or not continuous, as Director of the Institute for Judicial Studies and Assistance, Director of the Administrative Office of the United States Courts or Director of the Federal Judicial Center, and any service, not to exceed five years, as a judge of the United States, a Senator or Representative in Congress, or a civilian official appointed by the President, by and with the advice and consent of the Senate.

"§ 646. Procedure for Obtaining Grants

"(a) Within six months after the enactment of this Act, the Director shall, after consultation with the Board, issue regulations establishing general standards for obtaining grants under this Act. The regulations shall provide for regular reports to the Director by a recipient of a grant under this Act, and the Director shall from time to time, on the basis of the reports and other information available to him, review and, if necessary, revise the regulations issued pursuant to this section. Such regulations and revisions thereof shall not become effective until approved by the Board.

"(b) After the regulations referred to in subsection (a) of this section have been issued, any local or State court or any public or private agency desiring to secure a grant under this chapter may submit an application therefor to the Director. The application shall be in such form and contain such information as may be prescribed by the Director. The application shall be reviewed by the Director who shall recommend approval or disapproval to the Board. No application submitted by any local or State court for a grant under this chapter shall be recommended by the Director for approval unless such application has been first approved by the highest judicial authority of the State in which is located the court submitting such application. No application submitted by any public or private nonprofit organization for a grant under this chapter in connection with any local or State court shall acquire the approval of any State's highest judicial authority. State's highest judicial authority means the person or body of people who have been granted by state constitution or statute, supreme supervisory authority over the courts of the State or in the absence of such a grant the chief judge of the State's highest court.

"(c) The Board may approve any application recommended by the Director which complies with the provisions of this chapter. The payment of moneys to any applicant under this chapter will follow the approval of his application by the Board. Payment of any such grant may be made in advance or by way of reimbursement, and in such installments as may be determined by the Director, and shall be made on such conditions as the Director finds necessary to carry out the purposes of this chapter.

§ 647. Approval of Chief Judge

Nothing in this Act shall be construed as authorizing the Institute, the Board, or the Director, thereof, to supervise or control in any manner or to any extent the administration, organization of any local or State court, or to conduct or to cause to be conducted any study or evaluation of any local or State court without the prior approval of the highest judicial authority of the State in which such study or evaluation is to be conducted.

§ 648. Annual Report

On or before April 1 of each calendar year, the Board shall report in writing to the President and to the Congress on its activities pursuant to the provisions of this chapter during the preceding calendar year.

SEC. 2. Appropriations. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. For the purpose of making grants under this act there is hereby authorized to be appropriated for the fiscal year beginning July 1, 1970 and for each of the two succeeding fiscal years the sum of $5 million.

S. 3293—INTRODUCTION OF A BILL TO AUTHORIZE THE USE OF HIGHWAY FUNDS FOR PUBLIC TRANSPORTATION

Mr. RANDOLPH. Mr. President, I introduce today a measure for careful consideration by all persons interested in achieving workable solutions to our Nation's growing urban transportation problems. This bill will be a part of the hearings the Committee on Public Works will hold on the Federal-aid highway program during the second session of the 91st Congress.

Long ago the Congress recognized the specific highway needs of urban areas by providing that 25 percent of the funds authorized for Federal aid primary and secondary systems would be available for highway construction in urban areas. In the Federal-Aid Highway Act of 1968, funds were authorized for the TOPICS program, a program designed to improve traffic operations on those urban extensions of our Federal aid systems.

This legislation would authorize the Secretary of Transportation to permit urban areas of 50,000 population or more to use Federal aid highway funds in the operation of public transportation facilities. The purpose of such action would be to secure a sufficient reduction in the demand for highway transportation so that the highway needs of the area involved could be significantly reduced. Under the language of the bill, the people of the area would have an opportunity to be heard on the issue. All of the economic, social and environmental factors of the area would be considered before a determination is made to use highway funds for public transportation purposes.

This approach should enable many communities in the United States to more adequately develop their existing bus and mass transportation services. It would, I believe, help to provide a necessary bridge between the highway program and the extended urban mass transportation program being developed by the Committee on Banking and Currency.

I look forward to receiving counsel from all who are interested in this subject. I especially solicit the views of my colleagues, so that we can develop the most responsive highway program and provide for the most intelligent use of highway funds.

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

The bill (S. 3293) to amend title 23, United States Code, to provide for use of highway funds for public transportation, introduced by Mr. RANDOLPH, was received, read twice by its title, and referred to the Committee on Public Works.

S. 3295—INTRODUCTION OF A BILL TO REFORM THE NATION'S LAWS GOVERNING FOOD ADDITIVES

Mr. NELSON. Mr. President, I introduce, for appropriate reference, a bill

to reform our Nation's laws governing food additives. This bill, the Food Additive Safety Act, will require comprehensive testing of additives for a wide range of potential health hazards before Government approval can be granted for new additives as well as for the more than 2,000 already-approved additives, many of which were initially sanctioned without laboratory analysis for safety.

Unless our food safety laws are vastly reformed, the American public will continue to serve as a massive testing ground for a variety of sweeteners, preservatives, spices, and coloring agents that are marketed without safety research.

We simply must stop the practice of allowing food manufacturers to use the unknowing consumer as part of a large scale trial in the testing of food additives that have not been required to pass adequate laboratory examination.

Respected scientists have long questioned the safety of certain additives, especially those failing to offer any significant nutritive benefit to the consumer.

The recent concern over the health hazards of the artificial sweetener cyclamate has raised legitimate questions about other additives which were once believed to be safe but should now be subject to comprehensive testing and better regulation.

It seems to me that the link between cyclamates and cancer has been sufficiently proven to dictate its total removal from the marketplace. The only manner in which it should possibly be available to the public is by prescription only, a step that I advocated last spring.

While present law includes a general prohibition against unsafe and adulterated foods, only those food additives that cause cancer in man or animals are specifically forbidden from use through the so-called Delaney amendment.

The Delaney amendment is currently under attack from industry spokesmen and others on the basis of being too rigid to be practical. Some spokesmen have suggested that tolerances be allowed for cancer-causing substances.

When we are learning more and more about the hazards of chemicals in our environment, it is no time to be retreating from consumer safety. Instead of weakening existing food additive laws, we should broaden them to ban those additives that cause birth defects, mutations and other biological damage as well as cancer.

Under current regulations, a manufacturer can treat a substance as generally recognized as safe without safety testing if qualified scientists regard the item as not harmful for human consumption.

Congress made a grievous mistake a decade ago by allowing the issue of food additive safety to be settled by administrative judgment rather than laboratory results.

It is important to take issue with the argument that few, if any, food additives have been proven to cause cancer in man. Some chemicals known to cause cancer in man take 10 to 20 years of continual exposure before any malignancy appears. Even after that period of time, it is often exceptionally difficult to isolate any clear causal relationship between exposure to a particular chemical and subsequent development of cancer in man.

The Department of Health, Education, and Welfare announced restrictions on cyclamates in October after it was found to cause bladder cancer in rats that were fed the sweetener over a 2-year period at concentrations higher than regular daily human consumption, in accordance with customary practice in carcinogenity tests.

One must remember that the dosage, about 50 times higher than normal human consumption, was only half of the recognized safety factor of 100.

I understand that the FDA has additional independent studies on cyclamates and cancer, including research which disclosed cancer in the bladder of rats with cyclamate doses only eight times higher than the normal human level.

Even before the cancer connection was confirmed, numerous laboratory experiments had linked cyclamates to significant biological damage, including liver disorders, birth deformities, tissue changes in various organs, and chromosome breakage.

Some of the research came from FDA's own scientists, Drs. Marvin Legator and Jacqueline Verrett.

Dr. Legator's experiments showed cyclohexlamine, a derivative formed in the body from cyclamates, caused significant chromosome breakage in rat cells at very low doses. Dr. David Stone, of the Worcester Institute of Experimental Biology in Shrewsbury, Mass., reported similar chromosome breakage in laboratory cultures of human cells.

Dr. Verrett treated chicken eggs with cyclamates and cyclohexlamine and found that almost all the chick embryos developed some deformities, including distorted spines and no wings or legs. In a similar study, Wisconsin researchers reported birth defects among litters of piglets born of sows that had a diet containing cyclamates.

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

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

The bill (S. 3295) to amend sections 201(s) and 409 of the Federal Food, Drug, and Cosmetic Act, as amended, relating to food additives, introduced by Mr. NELSON, was received, read twice by its title, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 3295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act shall be known as the "Food Additive Safety Act of 1970".

SEC. 2. Paragraph (c) of section 201 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321(s)), is amended by striking out the comma immediately before "if such substance is not generally recognized" and everything that follows down through the remainder of such paragraph, and insert in lieu thereof a period.

SEC. 3. Section 409(c)(3)(A) of the Federal Food, Drug and Cosmetic Act, as amended (21 U.S.C. 348(c)(3)(A)) is amended by striking out "That no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animal," and inserting in lieu thereof the following: "That no food additive shall be deemed to be safe if it is found to induce chronic biological injury or damage in any respect, including but not limited to the induction of cancer, carcinogenosis), the induction of congenital deformities (teratogenesis) or the induction of genetic mutation (mutagenosis), when ingested by man or animal, or if it is found, after tests which are appropriate for the evaluation of the safety of food additives, to induce chronic biological injury or damage in any respect in man or animal,".

SEC. 4. The amendments made by the first two sections of this Act shall be applicable to all food additives (1) which was generally recognized as safe pursuant to section 201(s) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 321(s)), prior to the date of enactment of this Act, (2) which was exempted from the definition of such term under such section 201(s) prior to the date of enactment of this Act, and (3) with respect to which a regulation was issued, prior to the date of enactment of this Act, under section 409 of such Act.

S. 3297—INTRODUCTION OF A BILL TO BE KNOWN AS THE "DRUG IDENTIFICATION ACT OF 1969"

Mr. DOMINICK. Mr. President, I introduce, on behalf of myself and the senior Senator from New York (Mr. JAVITS), who is the ranking minority member of the Committee on Labor and Public Welfare, the administration bill to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs and which may be cited by the short title, "Drug Identification Act of 1969." Cosponsoring the bill with the Senator from New York and myself is the Senator from Illinois (Mr. SMITH).

The present labeling provisions of the Federal Food, Drug, and Cosmetic Act relating to the identification of drug products and their production or distribution origin do not require that this information be shown directly on the tablets or capsules of drugs marketed in these forms. Thus, in case of personal emergency, such as overdosage or accidental ingestion of a drug, identification may be seriously delayed and may require elaborate and time-consuming laboratory analysis. A quick identification of the drug in such emergencies, by labeling and direct product coding, could facilitate prompt and appropriate medical treatment. A uniform drug coding system to identify drug manufacturers and distributors would also be of great value to the Department of Health, Education, and Welfare and other Federal agencies and to State agencies in the administration of drug purchase and reimbursement programs.

The bill would amend the Federal Food, Drug, and Cosmetic Act to authorize the Secretary to establish a uniform code or system of coding for prescription drugs representing: First, the identity of the manufacturer; second, the identity of the drug; third, the identity of the final packager if different from the manufacturer; fourth, the dosage form and strength of the drug; and fifth, the number of drug units in the package. The applicable code information would have to appear on the label of the trade package of each prescription drug. In addition, if the drug is in tablet or capsule form, each tablet

or capsule would have to be marked with the code symbol representing the identity of the manufacturer and the identity and strength of the drug.

Where compliance would be impracticable because of the size or other relevant aspects of the container or the tablet or capsule, exemptions from these requirements could be granted if the exemption would not be inconsistent with protection of the public health.

The label of the trade package of a prescription drug would also have to bear the name and place of business of the manufacturer or, if different, the final packager; such a drug could no longer be marketed carrying only the name of the distributor who is not the final packager. It is the purpose of this feature to assist the Food and Drug Administration in effecting recalls of subpotent or other dangerous drugs down to the consumer level when necessary for protection of the public health and safety.

The name of a prescription drug—whether brand or generic—as written by the prescriber, and its strength, would be required to appear on the label of the drug container which is dispensed to the consumer, unless specifically indicated otherwise by the physician. In this event the code symbols identifying the manufacturer and the drug and its strength would have to be on that label. In addition, the bill would make applicable to the container of the dispensed prescription drug the requirement of the act, now applicable only to the trade package, that the label state the quantity of the contents. I might add parenthetically that the Secretary would, however, retain his present authority to exempt from this requirement packages so small that compliance would not be practicable.

The preparation of the drug code directory and its distribution, without charge, to hospitals, to poison control centers, and to such other persons as is deemed necessary to carry out the purposes of the bill would be the responsibility of the Department of Health, Education, and Welfare. Others could, of course, purchase the drug code directory from the Government Printing Office.

The coding requirements for prescription drugs imposed by this bill would take effect 2 years after the month in which regulations establishing the code system are promulgated and would be applicable to products manufactured thereafter. This leadtime would permit drug manufacturers who do not now code their products to phase in such procedures in their manufacturing and distribution operations. Earlier effective dates are specified in the bill for other labeling requirements contained therein.

In closing, I would like to bring to the attention of my colleagues that this bill is designed to carry out the recommendation on this subject in the President's consumer message of October 30, 1969.

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

The bill (S. 3297) to amend the Federal Food, Drug, and Cosmetic Act to establish a code system for the identification of prescription drugs, and for other purposes, introduced by Mr. DOMINICK (for himself, Mr. JAVITS, and Mr. SMITH of Illinois), was received, read twice by its title, and referred to the Committee on Labor and Public Welfare.

INCREASE OF BENEFITS UNDER THE OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM—AMENDMENT

AMENDMENT NO. 441

Mr. BYRD of West Virginia. Mr. President, on behalf of myself and the majority leader (Mr. MANSFIELD), I submit an amendment, intended to be proposed by us, jointly, to the bill (H.R. 15095) to increase benefits under the old-age, survivors, and disability insurance program.

The House bill provides a 15-percent across-the-board social security benefit increase. This feature, however, has now been incorporated in the tax reform bill. The minimum benefit is increased from its present $55 level to $64—a simple 15-percent increase, rounded up to the next dollar.

Mr. President, recently, during debate on the tax reform bill, the Senate adopted the Byrd-Mansfield amendment to the tax reform bill providing a minimum social security benefit of $100. To finance that increase, the amendment raised the social security wage base from $7,800 to $12,000 beginning in 1973.

During that debate, the Senate adopted another amendment I introduced, on behalf of the majority leader and myself, to make persons eligible for social security benefits at age 60, following a Presidential proclamation that it is desirable to expand consumer purchasing power by making additional persons eligible to receive social security benefits. As I pointed out during that debate, this provision requires no additional financing inasmuch as, in the long run, it results in no additional cost to the social security program. However, in the first full year it is effective, this provision would result in about $700 million in additional benefits.

The amendment I am introducing today to H.R. 15095 would, if adopted, incorporate the two Mansfield-Byrd amendments already agreed to by the Senate as amendments to the tax reform bill, but which were subsequently lost in conference. I ask unanimous consent that the text of the amendment be printed in the RECORD following my remarks, along with certain tables.

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

The amendment (No. 441) was referred to the Committee on Finance, as follows:

On page 1, strike out lines 3 and 4 and insert in lieu thereof the following:

"TITLE I—INCREASE IN SOCIAL SECURITY BENEFITS

"SECTION 1. This title may be cited as the 'Social Security Amendments of 1969'."

On pages 2 and 3, strike out the table and insert in lieu thereof the following:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount under 1967 act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$30.36	$85.90 or less	----------	$141	$100.00	$150.00
$30.37	30.92	87.20	$142	146	100.30	150.50
$30.93	31.36	88.40	147	150	101.70	152.60
$31.37	32.00	89.50	151	155	103.00	154.50
$32.01	32.60	90.80	156	160	104.50	156.80
$32.61	33.20	92.00	161	164	105.80	158.70
$33.21	33.88	93.20	165	169	107.20	160.80
$33.89	34.50	94.40	170	174	108.60	162.90
$34.51	35.00	95.60	175	178	110.00	165.00
$35.01	35.80	96.80	179	183	111.40	167.10
$35.81	36.40	98.00	184	188	112.70	169.10
$36.41	37.08	99.30	189	193	114.20	171.30
$37.09	37.60	100.50	194	197	115.60	173.40
$37.61	38.20	101.60	198	202	116.90	175.40
$38.21	39.12	102.90	203	207	118.40	177.60
$39.13	39.68	104.10	208	211	119.80	179.70
$39.69	40.33	105.20	212	216	121.00	181.50
$40.34	41.12	106.50	217	221	122.50	183.80
$41.13	41.76	107.70	222	225	123.90	185.90
$41.77	42.44	108.90	226	230	125.30	188.00
$42.45	43.20	110.10	231	235	126.70	190.10
$43.21	43.76	111.40	236	239	128.20	192.30
$43.77	44.44	112.60	240	244	129.50	195.20
$44.45	44.88	113.70	245	249	130.80	199.20
$44.89	45.60	115.00	250	253	132.30	202.40

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

"I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$116.20	$254	$258	$133.70	$206.40
		117.30	259	263	134.90	210.40
		118.60	264	267	136.40	213.60
		119.80	268	272	137.80	217.60
		121.00	273	277	139.20	221.60
		122.20	278	281	140.60	224.80
		123.40	282	286	142.00	228.80
		124.70	287	291	143.50	232.80
		125.80	292	295	144.70	236.00
		127.10	296	300	146.20	240.00
		128.30	301	305	147.60	244.00
		129.40	306	309	148.90	247.20
		130.70	310	314	150.40	251.20
		131.90	315	319	151.70	255.20
		133.00	320	323	153.00	258.40
		134.30	324	328	154.50	262.40
		135.50	329	333	155.90	266.40
		136.80	334	337	157.40	269.60
		137.90	338	342	158.60	273.60
		139.10	343	347	160.00	277.60
		140.40	348	351	161.50	280.80
		141.50	352	356	162.80	284.80
		142.80	357	361	164.30	288.80
		144.00	362	365	165.60	292.00
		145.10	366	370	166.90	296.00
		146.40	371	375	168.40	300.00
		147.60	376	379	169.80	303.20
		148.90	380	384	171.30	307.20
		150.00	385	389	172.50	311.20
		151.20	390	393	173.90	314.40
		152.50	394	398	175.40	318.40
		153.60	399	403	176.70	322.40
		154.90	404	407	178.20	325.60
		156.00	408	412	179.40	329.60
		157.10	413	417	180.70	333.60
		158.20	418	421	182.00	336.80
		159.40	422	426	183.40	340.80
		160.50	427	431	184.60	344.80
		161.60	432	436	185.90	348.80
		162.80	437	440	187.30	352.00
		163.90	441	445	188.50	356.00
		165.00	446	450	189.80	360.00
		166.20	451	454	191.20	363.20
		167.30	455	459	192.40	367.20
		168.40	460	464	193.70	371.20
		169.50	465	468	195.00	374.40
		170.70	469	473	196.40	378.40
		171.80	474	478	197.60	382.40
		172.90	479	482	198.80	385.60
		174.10	483	487	200.30	389.60
		175.20	488	492	201.50	393.60
		176.30	493	496	202.80	396.80
		177.50	497	501	204.20	400.80
		178.60	502	506	205.40	402.80
		179.70	507	510	206.70	404.40
		180.80	511	515	208.00	406.40
		182.00	516	520	209.30	408.40
		183.10	521	524	210.60	410.00
		184.20	525	529	211.90	412.00
		185.40	530	534	213.30	414.00
		186.50	535	538	214.50	415.60
		187.60	539	543	215.80	417.60
		188.80	544	548	217.20	419.60
		189.90	549	553	218.40	421.60
		191.00	554	556	219.70	422.80
		192.00	557	560	220.80	424.40
		193.00	561	563	222.00	425.60
		194.00	564	567	223.10	427.20
		195.00	568	570	224.30	428.40
		196.00	571	574	225.40	430.00
		197.00	575	577	226.60	431.20
		198.00	578	581	227.70	432.80
		199.00	582	584	228.90	434.00
		200.00	585	588	230.00	435.60
		201.00	589	591	231.20	436.80
		202.00	592	595	232.30	438.40
		203.00	596	598	233.50	439.60
		204.00	599	602	234.60	441.20
		205.00	603	605	235.80	442.40
		206.00	606	609	236.90	444.00
		207.00	610	612	238.10	445.20
		208.00	613	616	239.20	446.80
		209.00	617	620	240.40	448.40
		210.00	621	623	241.50	449.60
		211.00	624	627	242.70	451.20
		212.00	628	630	243.80	452.40
		213.00	631	634	245.00	454.00
		$214.00	$635	$637	$246.10	$455.20
		215.00	638	641	247.30	456.80
		216.00	642	644	248.40	458.00
		217.00	645	648	249.60	459.60
		218.00	649	653	250.70	461.60
			654	657	252.00	463.20
			658	661	253.00	464.80
			662	666	254.00	466.80
			567	670	255.00	468.40
			671	674	256.00	470.00
			675	678	257.00	471.60
			679	683	258.00	473.60
			684	687	259.00	475.20
			688	691	260.00	476.80
			692	695	261.00	478.40
			696	700	262.00	480.40
			701	704	263.00	482.00
			705	708	264.00	483.60
			709	712	265.00	485.20
			713	717	266.00	487.20
			718	721	267.00	488.80
			722	725	268.00	490.40
			726	729	269.00	492.00
			730	734	270.00	494.00
			735	738	271.00	495.60
			739	742	272.00	497.20
			743	746	273.00	498.80
			747	751	274.00	500.80
			752	755	275.00	502.40
			756	759	276.00	504.00
			760	763	277.00	505.60
			764	768	278.00	507.60
			769	772	279.00	509.20
			773	776	280.00	510.80
			777	780	281.00	512.40
			781	785	282.00	514.40
			786	789	283.00	516.00
			790	793	284.00	517.60
			794	797	285.00	519.20
			798	802	286.00	521.20
			803	806	287.00	522.80
			807	810	288.00	524.40
			811	814	289.00	526.00
			815	819	290.00	528.00
			820	823	291.00	529.60
			824	827	292.00	531.20
			828	831	293.00	532.80
			832	836	294.00	534.80
			837	840	295.00	536.40
			841	844	296.00	538.00
			845	848	297.00	539.60
			849	853	298.00	541.60
			854	857	299.00	543.20
			858	861	300.00	544.80
			862	865	301.00	546.40
			866	870	302.00	548.40
			871	874	303.00	550.00
			875	878	304.00	551.60
			879	882	305.00	553.20
			883	887	306.00	555.20
			888	891	307.00	556.80
			892	895	308.00	558.40
			896	900	309.00	560.40
			901	904	310.00	562.00
			905	908	311.00	563.60
			909	912	312.00	565.20
			913	917	313.00	567.20
			918	921	314.00	568.80
			922	925	315.00	570.40
			926	929	316.00	572.00
			930	934	317.00	574.00
			935	938	318.00	575.60
			939	942	319.00	577.20
			943	946	320.00	578.80
			947	951	321.00	580.80
			952	955	322.00	582.40
			956	959	323.00	584.00
			960	963	324.00	585.60
			964	968	325.00	587.60
			969	972	326.00	589.20
			973	976	327.00	590.80
			977	980	328.00	592.40
			981	985	329.00	594.40
			986	989	330.00	596.00
			990	993	331.00	597.60
			994	997	332.00	599.20
			998	1,000	333.00	600.40"

At the end of the bill, add the following:

"INCREASE OF EARNINGS COUNTED FOR BENEFIT AND TAX PURPOSES

"SEC. 6. (a)(1)(A) Section 209(a)(5) of the Social Security Act is amended by inserting 'and prior to 1973' after '1967'.

"(B) Section 209(a) of such Act is further amended by adding at the end thereof the following new paragraphs:

"'(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $12,000 with respect to employment has been paid to an individual during any calendar year after 1972, is paid to such individual during such calendar year;'.

"(2)(A) Section 211(b)(1)(E) of such Act is amended by inserting 'and prior to 1973' after '1967', and by striking out '; or' and inserting in lieu thereof '; and'.

"(B) Section 211(b)(1) of such Act is further amended by adding at the end thereof the following new subparagraph:

"'(F) For any taxable year ending after 1972, (i) $12,000, minus (ii) the amount of the wages paid to such individual during the taxable year; and'.

"(3)(A) Section 213(a)(2)(ii) of such Act is amended by striking out 'after 1967' and inserting in lieu thereof 'after 1967 and before 1973 or $12,000 in the case of a calendar after 1972'.

"(B) Section 213(a)(2(iii) of such Act is amended by striking out 'after 1967' and inserting in lieu thereof 'after 1967 and before 1973 or $12,000 in the case of a taxable year ending after 1972'.

"(4) Section 215(e)(1) of such Act is amended by striking out 'and the excess over $7,800 in the case of any calendar year after 1967' and inserting in lieu thereof 'the excess over $7,800 in the case of any calendar year after 1967 and before 1973, and the excess over $12,000 in the case of any calendar year after 1972'.

"(b)(1)(A) Section 1402(B)(1)(E) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by inserting 'and before 1973' after '1967', and by striking out '; or' and inserting in lieu thereof '; and'.

"(B) Section 1402(b)(1) of such Code is further amended by adding at the end thereof the following new subparagraph:

"'(F) for any taxable year ending after 1972, (i) $12,000, minus (ii) the amount of the wages paid to such individual during the taxable year; or'.

"(2) Section 3121(a)(1) of such Code (relating to definition of wages) is amended by striking out '$7,800' each place it appears and inserting in lieu thereof '$12,000'.

"(3) The second sentence of section 3122 of such Code (relating to Federal service) is amended by striking out '$7,800' and inserting in lieu thereof '$12,000'.

"(4) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking out '$7,800' each place it appears and inserting in lieu thereof '$12,000'.

"(5) Section 6413(c)(1) of such Code (relating to special refunds of employment taxes) is amended—

"(A) by inserting 'and prior to the calendar year 1973' after 'the calendar year 1967';

"(B) by inserting after 'exceed $7,800,' the following: 'or (E) during any calendar year after the calendar year 1972, the wages received by him during such year exceed $12,000,'; and

"(C) by inserting before the period at the end thereof the following: 'and before 1973, or which exceeds the tax with respect to the first $12,000 of such wages received in such calendar year after 1972'.

"(6) Section 6413(c)(2)(A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out 'or $7,800 for any calendar year after 1967' and inserting in lieu thereof '$7,800 for the calendar year 1968, 1969, 1970, 1971, or 1972, or $12,000 for any calendar year after 1972'.

"(c) The amendments made by subsections (a)(1) and (a)(3)(A), and the amendments made by subsection (b) (except paragraph (1) thereof), shall apply only with respect to remuneration paid after December 1972. The amendments made by subsections (a)(2), (a)(3)(B), and (b)(1) shall apply only with respect to taxable years ending after 1972. The amendment made by subsection (a)(4) shall apply only with respect to calendar years after 1972.

"TITLE II—ACTUARILY REDUCED SOCIAL SECURITY BENEFITS AT AGE 60

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Social Security Retirement Age Amendments of 1969'.

"ACTUARILY REDUCED BENEFITS

"SEC. 102. (a)(1) Section 202(a)(2) of the Social Security Act is amended by striking out '62' wherever it appears therein and inserting in lieu thereof '60'.

"(2) Section 202(b)(1) of such Act is amended by striking out '62' wherever it appears therein and inserting in lieu thereof '60'.

"(3) Section 202(c) (1) and (2) of such Act is amended by striking out '62' wherever it appears therein and inserting in lieu thereof '60'.

"(4)(A) Section 202(f)(1)(B), (2), (5), and (6) is amended by striking out '62' wherever it appears therein and inserting in lieu thereof '60'.

"(B) Section 202(f)(1)(C) of such Act is amended by striking out 'or was entitled' and inserting in lieu thereof 'or was entitled, after attainment of age 62,'.

"(5)(A) Section 202(h)(1)(A) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(B) Section 202(h)(2)(A) of such Act is amended by inserting 'subsection (q) and' after 'Except as provided in'.

"(C) Section 202 (h)(2)(B) of such Act is amended by inserting 'subsection (q) and' after 'except as provided in'.

"(D) Section 202(h)(2)(C) of such Act is amended by—

"(i) striking out 'shall be equal' and inserting in lieu thereof "shall, except as provided in subsection (q), be equal'; and

"(ii) inserting 'and section 202(q)' after 'section 203(a)'.

"(b)(1) The first sentence of section 202(q)(1) of such Act is amended (A) by striking out 'husband, widow's, or widower's' and inserting in lieu thereof 'husband's, widow's, widower's, or parent's', and (B) by striking out, in subparagraph (A) thereof, 'widow's or widower's' and inserting in lieu thereof 'widow's, widower's, or parent's'.

"(2)(A) Section 202(q)(3)(A) of such Act is amended (i) by striking out 'husband's, widow's, or widower's each place it appears therein and inserting in lieu thereof 'husband's, widow's, widower's, or parent's', (ii) by striking out 'age 62' and inserting in lieu thereof 'age 60', and (iii) by striking out 'wife's or husband's' and inserting in lieu thereof 'wife's, husband's, or parent's'.

"(B) Section 202(q)(3)(B) of such Act is amended by striking out 'or husband's' each place it appears therein and inserting in lieu thereof ', husband's, widow's, widower's, or parent's'.

"(C) Section 202(q)(3)(C) is amended by striking out 'or widower's' each place it appears therein and inserting in lieu thereof 'widower's, or parent's'.

"(D) Section 202(q)(3)(D) of such Act is amended by striking out 'or widower's' and inserting in lieu thereof 'widower's, or parent's'.

"(E) Section 202(q)(3)(E) of such Act is amended (i) by striking out '(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he' and inserting in lieu thereof '(or would but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit to which such individual was first entitled for a month before such individual', (ii) by striking out 'the amount by which such widow's or widower's insurance benefit' and inserting in lieu thereof 'the amount by which such widow's, widower's, or parent's insurance benefit', (iii) by striking out 'over such widow's or widower's insurance benefit' and inserting in lieu thereof 'over such widow's, widower's, or parent's insurance benefit', and (iv) by striking out 'attained retirement age' each place it appears therein and inserting in lieu thereof 'attained age 60 (in the case of a widow or widower) or attained retirement age (in the case of a parent)'.

"(F) Section 202(q)(3)(F) of such Act is amended (i) by striking out '(or would, but for subsection (e)(1) in the case of a widow or surviving divorced wife or subsection (f)(1) in the case of a widower, be) entitled to a widow's or widower's insurance benefit to which such individual was first entitled for a month before she or he' and inserting in lieu thereof '(or would, but for subsection (e)(1), (f)(1), or (h)(1), be) entitled to a widow's, widower's, or parent's insurance benefit for which such individual was first entitled for a month before such individual', (ii) by striking out 'the amount by which such widow's or widower's insurance benefit' and inserting in lieu thereof 'the amount by which such widow's, widower's, or parent's insurance benefit', (iii) by striking out 'over such widow's insurance benefit' and inserting in lieu thereof 'over such widow's, widower's, or parent's insurance benefit', (iv) by striking out '62' and inserting in lieu thereof '60', and (v) by striking out 'attained retirement age' each place it appears therein and inserting in lieu thereof 'attained age 60 (in the case of a widow or widower) or attained retirement age (in the case of a parent)'.

"(G) Section 202(q)(3)(G) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(3) Section 202(q)(5)(B) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(4) Section 202(q)(6) of such Act is amended (i) by striking out 'husband's, widow's, or widower's' and inserting in lieu thereof 'husband's, widow's, widower's, or parent's, and (ii) by striking out, in clause (III), 'widow's or widower's' and inserting in lieu thereof 'widow's, widower's, or parent's'.

"(5) Section 202(q)(7) of such Act is amended—

"(A) by striking out 'husband's, widow's, or widower's' and inserting in lieu thereof 'husband's, widow's, widower's, or parent's'; and

"(B) by striking out, in subparagraph (E), 'widow's or widower's' and inserting in lieu thereof 'widow's, widower's, or parent's'.

"(6) Section 202(q)(9) of such Act is amended by striking out 'widow's or widower's' and inserting in lieu thereof 'widow's, widower's, or parent's'.

"(c)(1) The heading to section 202(r) of such Act is amended by striking out 'Wife's or Husband's' and inserting in lieu thereof 'Wife's, Husband's, Widow's, Widower's, or Parents's'.

"(2) (A) Section 202(r)(1) of such Act is amended (i) by striking out 'wife's or husband's' the first place it appears therein and inserting in lieu thereof 'wife's, husband's, widow's, widower's, or parent's', and (ii) by inserting immediately before the period at

the end thereof the following: ', or for widow's, widower's, or parent's insurance benefits but only if such first month occurred before such individual attained age 62'.

"(B) Section 202(r)(2) of such Act is amended by striking out 'wife's or husbands' " and inserting in lieu thereof 'wife's, husband's, widow's, or widower's, or parent's'.

"(d) Section 214(a)(1) of such Act is amended by striking out subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting the following new subparagraphs (A) and (B):

"'(A) in the case of a woman who has died, the year in which she died or (if earlier) the year in which she attained age 62,

"'(B) in the case of a woman who has not died, the year in which she attained (or would attain) age 62,'

"(e)(1) Section 215(b)(3) of such Act is amended by striking out subparagraph (A), by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting the following new paragraphs (A) and (B):

"'(A) in the case of a woman who has died, the year in which she died, or, if it occurred earlier but after 1960, the year in which she attained age 62,

"'(B) in the case of a woman who has not died, the year occurring after 1960 in which she attained (or would attain) age 62,'.

"(2) Section 215(f)(5) of such Act is amended (A) by inserting after 'attained age 65,' the following: 'or in the case of a woman who became entitled to such benefits and died before the month in which she attained age 62,'; (B) by striking out 'his' each place it appears therein and inserting in lieu thereof 'his or her'; and (C) by striking out 'he' each place after the first place it appears therein and inserting in lieu thereof 'he or she'.

"(f)(1) Section 216(b)(3)(A) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(2) Section 216(c)(6)(A) of such act is amended by striking out '62' and inserting in lieu thereof '60'.

"(3) Section 216(f)(3)(A) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(4) Section 216(g)(6)(A) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"(g)(1) Section 202(q)(5)(A) of such Act is amended by striking out 'No wife's insurance benefit' and inserting in lieu thereof 'No wife's insurance benefit to which a wife is entitled'.

"(2) Section 202(q)(5)(C) of such Act is amended by striking out 'woman' and inserting in lieu thereof 'wife'.

"(3) Section 202(q)(6)(A)(i)(II) of such Act is amended (A) by striking out 'wife's insurance benefit' and inserting in lieu thereof 'wife's insurance benefit to which a wife is entitled', and (B) by striking out 'or' at the end and inserting in lieu thereof the following: 'or in the case of a wife's insurance benefit to which a divorced wife is entitled, with the first day of the first month for which such individual is entitled to such benefit, or'.

"(4) Section 202(q)(7)(B) of such Act is amended by striking out 'wife's insurance benefits' and inserting in lieu thereof 'wife's insurance benefits to which a wife is entitled'.

"(h) Section 224(a) of such Act is amended by striking out '62' and inserting in lieu thereof '60'.

"SEC. 103. The amendments made by section 102 of this title shall apply with respect to monthly benefits under title II of the Social Security Act for months after the month in which the President determines that it is desirable to expand consumer purchasing power by making additional persons eligible to receive social security benefits.

"SEC. 104. Section 8332(j) of title 5 of the United States Code is amended by striking 'individual, widow,' in the first sentence and substituting in lieu thereof 'individual is at least 62 years of age, or if his widow'."

The tables, presented by Mr. BYRD of West Virginia, are as follows:

Actuarial balance of old-age and survivors insurance and disability insurance trust funds

	Percent
Present law	+1.16
H.R. 15095: 15-percent increase with $64 minimum	−1.24
Actuarial balance under House bill	−.08
Byrd-Mansfield amendment:	
Additional increase in minimum from $64 to $100	−.42
Increase in earnings base from $7,800 to $12,000	+.53
Actuarial balance of modifications in Byrd-Mansfield amendment	+.11
Actuarial balance of H.R. 15095 as amended by Byrd-Mansfield amendment	+.03

PROGRESS OF THE OASDI TRUST FUNDS UNDER H.R. 15095 AS AMENDED BY BYRD-MANSFIELD AMENDMENT[1]

[In billions of dollars]

Year	Total income	Total outgo	Net increase in funds	Balance in funds, end of year
1969	$33.5	$27.9	$5.5	$34.3
1970	36.1	34.9	1.1	35.4
1971	41.0	36.9	4.1	39.5
1972	43.4	38.3	5.1	44.6
1973	54.8	39.6	15.3	59.8
1974	60.8	40.8	20.0	79.8

[1] Excludes additional expenditures related to lowering social security eligibility age to 60, estimated at $700 in the first full year.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 22, 1969, he presented to the President of the United States the following enrolled bills:

S. 2577. An act to lower interest rates and fight inflation; to help housing, small business, and employment; to increase the availability of mortgage credit; and for other purposes; and

S. 3016. An act to provide for the continuation of programs authorized under the Economic Opportunity Act of 1964, and for other purposes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

CIVILIAN WAR CASUALTIES IN VIETNAM

Mr. DOLE. Mr. President, recently, the senior Senator from Massachusetts made a statement that there have been more than 1 million civilian casualties in Vietnam since 1965, with 300,000 deaths. He was quoted further as saying that some of the deaths and injuries were caused by Vietcong terrorism "but the majority have been stimulated by ARVN—South Vietnamese—and U.S. forces."

Mr. President, it would be helpful if the Senator from Massachusetts disclosed where the Senate Refugee Subcommittee obtained such figures.

Since his interview was reported, I have asked the Department of Defense to verify the figures used by the Senator. They have not been able to do so and in fact claim there are no reliable figures available on the total number of civilian casualties.

Mr. President, it is unclear what the Senator meant by his statement that the ARVN and the U.S. forces had stimulated the large number of casualties he disclosed.

As with his comments on battle tactics at the time of the U.S. assault on "Hamburger Hill," one wonders if the Senator is placing himself in the role of a military strategist by such statements.

Further, it must be established whether the Senator is talking about noncombatant civilians or civilians who in reality are members of the Vietcong and are engaged in guerrilla warfare.

Mr. President, it is common knowledge that there are no well established battlefronts and uniformed soldiers in a guerrilla war. In Vietnam, not only men, but women and teenagers who often dress very much alike are members of the Vietcong. They shoot Americans. They throw grenades. They lay mines. They rig booby traps.

Are these the people the Senator refers to?

There is no doubt that in this war, as in other wars, innocent people have been killed and wounded. No one likes this and, for that matter, no civilized person likes the war or the idea of killing.

But I would remind the Senator that the accidental killings that inevitably accompany war are considerably different from the deliberate murder, kidnapings, and tortures the Vietcong and the North Vietnamese indulge in as a matter of approved policy.

The Senator perhaps realizes that the numbers of murders and atrocities and kidnapings by the Vietcong in South Vietnam are so numerous that a weekly list is compiled in order to keep up with them. I wonder how the Senator accounts for the 3,000 wanton murders at Hue. I wonder whether he has looked at the annual totals on Vietcong terrorism since 1962. Those figures may be enlightening.

In 1962, the Vietcong killed 1,719 civilians. In 1963—2,073; in 1964—1,611; in 1965—2,032; in 1966—2,613; in 1967—3,706; in 1968—excluding the Tet offensive—5,389; in 1969, to date—5,953. During the Tet offensive about 10,000 civilians were killed.

In addition, I might point out that civilians are wounded at a rate of between two and three for every civilian killed. And the Vietcong kidnap about

one and a half times as many people as they kill.

Since 1957, it is estimated that well over 100,000 persons have been the victims of Vietcong terror—killed, wounded, kidnaped, raped, homes destroyed, and crops stolen.

Does the Senator mean to imply that the United States and its allies are equally guilty?

Mr. President, I would like to read from part of a November 18 dispatch from Hue:

> The farmers of Duong Mong village near Hue still remember the nights of 20 months ago. "They marched the children to the bank of a stream", said one elderly farmer. "We could hear their cries and screams. Then they killed them."
>
> The bodies of 15 school children were discovered November 12 in Phu Thu district, 14 kilometers southeast of Hue, along with 51 other victims of the communist massacre. A total of 230 bodies have been recovered since November 8. The children, all about 16 years old, were kidnapped by communists from various Hue schools during the battle for the city during Tet, 1968.

Mr. President, I could go on and on. The list of Communist atrocities, sanctioned and approved by the Vietcong and by the North Vietnamese is almost unending.

Does the Senator mean to imply that is the case with American troops?

Mr. President, I fervently hope not.

Regardless of how badly one may want to end this war, I find it highly improper to make unproved and unprovable charges about American troops and American intentions.

Yes, we should face up to the truth and yes, we should condemn any acts of atrocity by Americans.

But must we label all of our men with the same brand?

Must we ignore the many fine and humane things American soldiers have done?

Must we set out to destroy America's confidence in American fighting men?

Is this the price we must pay for peace?

Mr. President, I do not believe it is. I can only hope that the Senator from Massachusetts does not believe it is, either.

Mr. KENNEDY. Will the Senator from Kansas be kind enough to yield to me?

Mr. DOLE. I am pleased to yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the time to speak on this subject be extended 5 minutes.

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

Mr. KENNEDY. I regret that the Senator did not inform me he was going to make some comments on this matter this morning, as I would have been able to bring to the Chamber and make a part of the RECORD the complete documentation. I hope that I may have a chance to introduce, at an appropriate place in the RECORD, specific rebuttals to the suggestions which have been made by the Senator from Kansas.

It is interesting that the Senator has quoted with some accuracy the Defense Department figures on the number of South Vietnamese killed by the Vietcong.

Let me indicate at the outset that nowhere in the extensive and comprehensive report of the Subcommittee on Refugees, nor in the statements that I have made here, have we done anything but condemn the policy of terrorism which is the policy of the Vietcong in South Vietnam. There is absolutely no kind of question as to the work of the members of the Subcommittee on Refugees, or of myself, in condemning that activity by the Vietcong.

There is a question, I believe, as to the number of civilian casualties which have been caused by United States and ARVN forces. I am wondering whether, in his work, the Senator from Kansas had the opportunity to inquire of the Department of Defense as to the number of civilian casualties in various hospitals. In his inquiry with the Department of Defense, did the Senator seek to obtain those figures?

Mr. DOLE. I have waited to make this statement until the Senator was in the Chamber and have had it for a couple of weeks. I recognize the courtesy due to the Senator from Massachusetts. On the basis of the interview by the Senator from Massachusetts, which I assume was brief, the Department of Defense was asked to make a complete report not only as to the question the Senator raised, but also the other question of the number killed or wounded.

Both the Senator from Massachusetts and I condemn terrorism wherever it may take place. But one word used by the Senator in the statement, or at least attributed to him, is that we have "stimulated" civilian deaths. I do not understand that at all.

Mr. KENNEDY. If the Senator from Kansas would respond to my question: Did he ask the Department of Defense how many civilian casualties were in the various hospitals in Vietnam? Also, did the Senator make any effort, when he received that information—as I have—to inquire and learn the cause of those particular casualties? Did the Senator make any inquiry to that effect?

Mr. DOLE. We have asked for the report.

Mr. KENNEDY. The Senator is indicating that he is responding both to my comments and to the work of the subcommittee on which we spent a great deal of time, in which report the Republican members of the subcommittee joined.

In terms of those figures of approximately 1 million casualties, including an estimated 300,000 deaths, which were based, among other things, on reports made by General Humphries and Colonel Moncrief, who were the two leading medical officials during the subcommittee's most intensive investigation, I am wondering whether the Senator made any inquiry of the Defense Department as to how many civilian casualties have been treated in the various hospitals in Vietnam? How many who had wounds from the war were treated in outpatient clinics? Did the Senator request that information? If he did, can he enlighten me now as to the information of the executive branch?

Mr. DOLE. It was hoped the Senator would first enlighten us as to what he meant by our forces having "stimulated" the casualties.

Second, the Defense Department cannot verify the figures referred to in the December 2 interview. This was the basis of my inquiry of the Defense Department, to furnish a complete list of civilian casualties. I assume it included those who had been wounded and those who had been killed.

Mr. KENNEDY. What figures does the Senator have from the Defense Department?

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

Mr. KENNEDY. Mr. President, I ask unanimous consent to continue for 5 minutes.

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

Mr. KENNEDY. What figures did the Senator receive from the Defense Department as to civilian casualties who have been treated in hospitals? I would suggest to the distinguished Senator that he might make such inquiry of AID, since as the Senator probably knows, because he is interested in this subject, only a very limited number of civilians are treated in military hospitals. A larger number are treated in provincial hospitals, and most of these hospitals are being furnished AID funds. I can understand that the Defense Department might not have those figures, but has the Senator made any inquiry of AID, and has AID been able to furnish the Senator with the information? I am interested as to what figures might have been furnished the Senator.

Mr. DOLE. No, I have not checked with AID. I am simply raising the question as to how the Senator from Massachusetts can say that these casualties have been stimulated by American forces. This statement was made at about the same time the Mylai massacre was publicized. The Senator has put the figure at 300,000 killed and 1 million wounded in the years of our presence in Vietnam.

Mr. KENNEDY. The figure is 1 million civilian casualties, including 300,000 deaths. Is the Senator disputing the word "stimulated" or the figures? Let us take one thing at a time. Let us get to the figures first. Then I shall respond to the other inquiry.

Mr. DOLE. It would be helpful if the Senator did respond.

Mr. KENNEDY. In 1967, there reportedly were nearly 49,000 civilian casualties admitted to U.S. military hospitals and some 43 GVN provincial hospitals. Do the Senator's figures show that?

Mr. DOLE. No. The department cannot verify the Senator's figures. It has given me what it has.

Mr. KENNEDY. Those are AID figures I am citing to the Senator. If the Senator is here to rebut my charges, I suggest

he supply either Defense Department figures or AID figures. I am wondering what figures the Senator has—on what basis is he questioning my statement in early December? I should think the Senator would at least come up with some alternative figures and the reason for them, because I am prepared to substantiate every word I have said. I am delighted to have the opportunity to review them with the Senator in some detail. The basis for the figures I have used is outlined extensively in hearings before the Refugee Subcommittee, as well as in a subcommittee report. That report was signed, I may say once again, by Republican members of the committee, and is based on very extensive work by the Refugee Subcommittee, including field investigations.

Mr. DOLE. Hopefully the Senator from Massachusetts can verify what he said on December 2.

Mr. KENNEDY. I do not have any problem in verifying it. Would the Senator, as well, in taking the Defense Department figures, have his staff review them, or take the time himself to review them, in connection with the extensive report the Refugee Subcommittee has filed? The subcommittee went into some detail as to how the annual and cumulative figures were arrived at. If the Senator is prepared to rebut the subcommittee's view, I think we would have a much more reasonable ground for this discussion if he would speak to the issue now correctly.

As the Senator knows, the subcommittee's report has been on file for some time, and is the basis for the observations that we stated earlier this month.

As I have said, since I did not know specifically that the Senator was going to raise these questions, I do not have the full information with me, but I have dispatched my staff to get the report itself. But the AID figures show that in 1967 there were nearly 49,000 civilian casualties admitted for treatment in 43 provincial hospitals and some U.S. military hospitals.

When I was in Vietnam I visited some 12 provincial hospitals and found that the figures given me in Saigon on the admission of civilian war casualties were from 10 to 20 percent understated on the basis of personal investigation in those civilian hospitals. I note, incidentally, that the Senator said that for every one civilian death there were two or three wounded.

The PRESIDING OFFICER. The 5 minutes granted the Senator have expired.

Mr. KENNEDY. Mr. President, I ask unanimous consent to have 3 additional minutes.

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

Mr. KENNEDY. I certainly hope that the distinguished Senator from Kansas will have a chance—and I say this with the greatest respect—to review the hearings of the Refugee Subcommittee as well as the conclusions that were derived therefrom. Let me just summarize the basis for the subcommittee's estimates on civilian war casualties. AID testimony before the subcommittee suggests that for each civilian casualty one sees, there is one he does not see. Moreover, there is another 50,000 including those who are killed outright. In 1967, there were nearly 49,000 civilian casualties admitted to hospitals by AID estimates. Double the number and add 50,000. The total for 1967 is at least 150,000.

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

Mr. KENNEDY. I yield.

Mr. DOLE. It is regrettable whether 1, 100, or 1,000 civilians are lost. In any event, the point, whether recognized by the Senator from Massachusetts or by the committee, is that some of these are the same civilians who are part and parcel of the Vietcong, who throw the handgrenades and place the boobytraps that kill and injure Americans. Whether one or 100 lives are lost, it is a tragedy just the same. The point is: Are we saying that because 100,000, 200,000, or 300,000 civilians have been killed, their deaths have been, in effect, stimulated by the United States and by the ARVN?

War is a great tragedy and many innocent persons are killed, maimed, and disabled. In our efforts to point this out let us not appear to indicate that this is a policy of American fighting men.

Mr. KENNEDY. On the question of estimates on civilian war casualties, I stand fully on the record developed by the Refugee Subcommittee—and the subcommittee challenges the executive branch to dispute our stating those figures. The basis for our estimates exist in the report, and if the Defense Department wants to analyze it and rebut it, I would be glad to debate that issue on the floor or anywhere else. But I stand by the figures developed by the subcommittee.

The issue is, first of all, the number of civilian casualties in Vietnam and, more importantly, whether our efforts as a nation should not include high priority and care and consideration for those people.

As the Senator would realize after a study of war-related civilian problems in Vietnam—of refugees, civilian casualties, and others in distress—efforts for the care and protection of these people have been given low priority. In other words, beer for the military has been given a higher priority than medical and other supplies for refugees and civilian casualties. I believe those priorities have been changed in the recent past, however.

Mr. DOLE. Does the Senator have a specific example of that?

Mr. KENNEDY. Yes. There is a series of priority ratings that is given by the military for transportation of supplies, which I believe was changed somewhat in favor of Vietnamese civilian needs. This is one of the things that has been changed, I think to a great extent as a result of the splendid work of the members of the subcommittee. In terms of getting materials moved for refugees, I believe the early priority rating was the sixth rung of the ladder and, as the Senator realizes, transportation is one of the keys.

No matter what our views, if we are in Vietnam, and really over there because we are concerned about people, we ought to be doing a great deal more than we are doing. I feel that as a result of the work of the Refugee Subcommittee, we have found the Defense Department even building new hospitals and making available to civilian casualties, new facilities, hospitals. We found new energies and new efforts being made.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I ask for 3 more minutes.

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

Mr. KENNEDY. To provide the transportation for those who were working with refugees and civilian casualties, we found MILPHAP teams going out from medical stations to work with civilian casualties, and found new priorities on that.

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

Mr. KENNEDY. Let me just say, that this is an important and useful step forward, and I would certainly hope that, whether these civilians over there have been the casualties of our own firepower and military tactics or the result of Vietcong terrorism—and many of them are, and in the report we have indicated this—there is no excuse for us not giving the care and consideration to the people over there equally as high priority as we are giving to the military efforts; because if we are really interested in people and in the Vietnamese, I think this is really our responsibility.

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

Mr. KENNEDY. I yield to the Senator.

Mr. DOLE. I take no exception to that. Having had some experience in war and having seen some of the tragedies of war, I know innocent civilians are, from time to time, killed and injured, and recognize that we have an obligation to them. But our first obligation, of course, is to the American fighting man and to our allies' forces. This must be paramount. I realize, that we must take care also of those who are wounded by the Vietcong, as well as those wounded as a result of our military efforts.

But the point is that from the thrust of the colloquy, as I understand it, the Senator is very quick to condemn atrocities on our side. He even raised questions as to whether this was the result of American policy. I do not believe it is the policy of America. My point is that those 300,000 or 400,000 or 500,000 civilian casualties cannot be said be the result of an American policy to destroy noncombatant civilians.

Mr. KENNEDY. I ask unanimous consent to have printed in the RECORD at an appropriate place a part of the report issued on May 9, 1968, showing the findings on civilian casualties of the subcommittee to investigate problems of refugees and escapees. It is a rather short section and indicates how the number of civilian casualties was arrived at. I also ask unanimous consent to include an additional staff memorandum.

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

EXCERPT FROM REPORT ON CIVILIAN CASUALTY AND REFUGEE PROBLEMS IN SOUTH VIETNAM, MAY 9, 1968

B. THE NUMBER OF CIVILIAN CASUALTIES

In March of 1967 the subcommittee completed its preliminary investigation of the civilian casualty problem and the chairman made public the results showing that the civilian casualty rate was then running "at least 100,000 a year." AID officials refrained from commenting publicly on the figure other than to indicate the monthly civilian war casualties admissions to hospitals were running at about 4,000 each month. In September the AID medical survey team commented that "our impression is that an estimate of 75,000 civilian casualties per year is too high."

In December of 1967, Col. William Moncrief, head of the AID medical programs in South Vietnam, made the first official estimate of civilian casualties by that agency available to the press. Colonel Moncrief estimated that the number of civilian casualties were running at a rate of 100,000 a year, breaking that figure down into 76,000 injured and approximately 24,000 civilians killed outright or dying before they could reach medical facilities. Subsequent information developed by the subcommittee between April and December of 1967 led the chairman to take the Senate floor on December 12 and revise the estimates upward to a 150,000 casualty rate.

The investigations in South Vietnam in January tended to confirm the 150,000 figure as the pre-Tet casualty rate. An examination of the AID monthly figures for civilian war casualties treated in one of South Vietnam's provincial hospitals as in-patients shows an average of about 4,000 per month through 1967. What the monthly figures did not show was that the monthly totals being supplied by AID were not complete figures—in fact, an average of 10 percent of the hospitals supposed to report monthly were not doing so, and as a result the AID statistics of admissions were understated.

Likewise, a number of hospitals run by private charitable groups such as the American Friends and Catholic groups were not included in the AID figures. Neither did the figures include the special forces hospitals which we learned were running at about 100 per month.

Additionally members of the subcommittee staff ran spot checks at the provincial hospitals to determine the accuracy of the numbers being reported to Saigon. The closest they found by actual count was an understatement of 10 percent. In some cases, there were 50 percent more civilian war casualties than actually reported.

Added to this total of inpatients in the Provincial hospitals is an additional number of casualties treated in the village and hamlet dispensaries and all those treated as outpatients in the Provincial hospitals. Based on spot checks by a medical member of the survey team, the subcommittee estimates the number of civilian war casualties treated in the village and hamlet to be running at a rate of at least 50,000 a year, and that outpatients treated at the hospitals (Provincial) were close to that figure. Admittedly, some of those treated in the local facilities or as outpatients were not serious injuries, but it was clear that many of them were of a serious nature.

There were some other serious omissions in the totals. We were told that some civilian casualties were being treated by so-called oriental or Chinese doctors and that others were treated in a network of Vietcong hospitals. Staff investigators even had a chance to see an abandoned underground Vietcong hospital in Tay Ninh Province which had once been used by the Japanese. The numbers falling into these categories are difficult to determine.

By far the greatest omission, however, is represented by those civilians who are killed outright, or die before reaching hospitals, or for one reason or another are never treated, Colonel Moncrief estimated the number of civilians killed outright or before reaching medical facilities as approximately 24,000. Some in Vietnam thought that figure was too low. Others maintained it was too high. No one had more than a guess as to the number not receiving treatment at all, other than general agreement that the numbers was "significant."

In summary, then, we found that the number of pre-Tet civilian casualties treated as inpatients in the Provincial hospitals was understated because a number of hospitals were not reporting and those that were reporting were often understating the number by from 10 to 50 percent. The subcommittee estimates the number of civilian war casualties being treated as inpatient's in the Provincial hospitals to be running 65,000 per year.

Those hospitals not included in the reporting list would increase the number by an additional 3,000 per year.

The number of outpatients and those treated at village or hamlet facilities, the subcommittee believes to be running at approximately 100,000 additional per year, although many of these injured were not of a serious nature.

Taking Colonel Moncrief's estimate of 24,000 civilians killed before reaching medical facilities, and adding a number of those being treated by the Vietcong or by private doctors or receiving no medical treatment at all, we must conclude that the number of civilian casualties was running at between 150,000 to 200,000 a year prior to Tet.

STAFF MEMORANDUM ON VIETNAMESE CIVILIAN WAR-RELATED CASUALTIES

Year	Official U.S. Government estimates	Subcommittee estimates
1965		100,000
1966		150,000
1967	48,734	175,000
1968 (TET)	88,116	300,000
1969 (10 months)	58,698	200,000

1. Official estimates are based exclusively on inpatient admissions to GVN and U.S. military hospitals.

2. Subcommittee estimates are based on the following:

(a) official estimates of inpatients

(b) understated reports by GVN provincial hospitals—in 1967, for example, an average of some 10% of the hospitals were not making regular monthly reports—those that were reporting were often understating the number of civilian war casualty admissions by some 10% to 50%—in 1967, this factor added nearly 20,000 civilian war casualties to official estimates, increasing the actual number of civilian war casualty inpatients by nearly 40%—

(c) civilian war casualty inpatients at private hospitals and others not on the GVN reporting list—in 1967, this accounted for at least 3,000 civilian war casualties per year—

(d) civilian war casualty outpatients at GVN provincial hospitals, which in 1967 was close to 50,000—

(e) civilian war casualties treated at village and hamlet dispensaries, which in 1967 was at least 50,000—

(f) civilian war casualties treated at special forces hospitals, which in 1967 were running at some 100 per month—

(g) civilian war casualties treated in Viet-Cong hospitals and dispensaries—

(h) civilian war casualties who may survive, but are never treated—

(i) civilian war casualties who are killed outright or die before reaching treatment facilities—the figure here probably accounts for at least 25% of the cumulative estimated total of civilian war casualties—

Mr. KENNEDY. In reference to the infliction of civilian casualties by U.S. action, I would draw the Senator's attention to the statement made by Mr. John Hannah, the Administrator of the Agency for International Development, in his testimony, which is included in our hearings, dated June 24 and 25. I shall just read a short part:

A very large percentage of all deaths and injuries to civilians has been due to attacks by the Viet Cong and the North Vietnamese.

Regrettably, the military response from the GVN, U.S. and allied forces inevitably contributes to the number of deaths and injuries among the civilian population.

Many of the civilian war casualties are women and children.

This is stated by the distinguished Administrator of AID and is certainly what we have been finding in the course of our investigations and studies. One does not, of course, condone Vietcong terrorism, but the real question for us is the magnitude of the problem, which the American people ought to know about. We talk about the tragedy of that war; we ought to talk about the tragedy of what is happening, not only to our own servicemen, horrible as that is, and not only in terms of resources dissipated, extensive as that is, but also in terms of what is happening to the Vietnamese people.

When we find that civilian casualties extend to 300,000 deaths, and when, as the Director of the agency for AID has stated, that regrettably the military response from GVN and United States and allied forces inevitably contributes to the number of deaths and injuries among the civilian population, the situation is horrible indeed.

Mr. DOLE. Mr. President, will the Senator yield at that point? We are discussing two different things.

Mr. KENNEDY. I think we have talked about two things. One was the figures, the other the question of the cause of civilian casualties.

Mr. DOLE. I may add without hesitation that I trust the Senator does not relate these figures in any way to the Mylai incident; but the question he raised was in connection with it.

Mr. KENNEDY. At this point I do not wish to enter into a discussion of Mylai. We have enough groups investigating that tragedy at present. It was a horrendous situation under any set of circumstances.

Mr. DOLE. Except that the Senator's statement was based on the Mylai incident.

Mr. KENNEDY. No. I stand to be corrected. My statement dealt with the cumulative total of civilian casualties and deaths and the reasons and causes for those casualties and deaths. I can

remember talking in those terms as well as expressing horror about the whole incident of Mylai, but without making any kind of judgment as to the extent of the guilt or innocence of those involved.

Mr. DOLE. Mr. President, it might be of interest to have in the RECORD what the Senator meant by the term "stimulated," and whether the AID figures show how many were wounded and how many killed as a result of Vietcong action. It is very important that we understand and clearly discuss the problem.

I do not say that we should do nothing about it. That has been made very clear.

I have had some personal experiences in dealing with civilians who were injured as a result of military action. We have a responsibility for any individual—man, woman, or child; but our first responsibility is to the American fighting man and his safety.

Mr. KENNEDY. Mr. President, there was nothing in my comments earlier this month or in the report that would make any issue about the safety and the protection of the American serviceman.

Mr. DOLE. It should not be indicated, in any manner, that it is the policy of the American fighting man to kill or injure civilians and "stimulate" action which results in the death or injury of civilians.

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

Mr. DOLE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mr. DOLE. Mr. President, I yield to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. PERCY. Mr. President, I have been extremely interested in this colloquy. I think it has been constructive and helpful. I shall comment on just a few of the points that have been raised and perhaps make a contribution to the comments.

First, on the question of the Vietcong and whether atrocities committed against civilians is a way of life with them and a means of gaining their objective, I would concur in the statement of the Senator from Kansas.

I happened to visit the village of Dong Xuan a few days after the Vietcong had been there and committed atrocities. These atrocities were covered well by the media and I would like to relate the acts that occurred.

The village of Dong Xuan was occupied chiefly by women and children. The men had had to vacate the village. At midnight, the Vietcong brought in flamethrowers.

Between 200 and 300 civilians, women and children, were murdered in their huts by flamethrowers. The air was sucked out and they suffocated and were found dead in the morning. I actually saw the holes into which the women and children had tried to crawl after they realized that their huts were on fire.

I tried to inquire as to why the Vietcong would do something like this. It was apparently their way of saying that this village had not cooperated with them and that therefore they wanted to do this as an example to many other villages as a warning that unless they cooperated with the Vietcong, the Vietcong was going to make them pay the price. This was premeditated murder of the worst type.

I saw with my own eyes at the time we were there the still smoldering embers of the village. It was unbelievably horrible to see what the Vietcong had done.

We can now find many similar cases in which thousands of villagers have been killed. These can be cited as evidence of the way the Vietcong are carrying on the war.

Second, on the question of whether we cause civilian deaths, I do not think there is any doubt that in our waging of the war, civilian deaths do occur. They occur as the direct result of some of our actions.

When we take a whole area in Vietnam and declare it to be a free bombing zone, bombs, after adequate notification, are dropped indiscriminately into that area to wipe it out. Whatever civilians are there are killed.

Do we take every conceivable precaution to notify them that this is a war zone that will be bombed? I think we do. We go to extraordinary means to move civilians out by helicopter, and other means, and set them up in camps so that we may try to protect them. I visited these camps and saw how they were treated and the food relief they received. Even though there may be some graft in administration of this relief, we do try to help these civilians. We try to take these precautions, but we do not always succeed. Thus, as a result of our war actions, many civilians have been killed.

There is blame to be placed all across the board with relation to the death of civilians. However, with relation to the Mylai incident in which so many were killed, I think everyone agrees that it is an isolated occurrence. Certainly if a crime has been committed at Mylai we intend to get at the bottom of it. What have the Vietcong ever done to try to bring their killers to court in the interest of justice? They have done nothing.

I trust that the world will better understand from this incident that the atrocities and civilian murders are a way of life for the Vietcong, and that if they do occur on the part of our military they are part of an isolated event, I hope the world will understand that we intend to prosecute and bring to justice the people responsible for whatever crimes they have committed.

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

Mr. DOLE. Mr. President, I yield myself an additional 3 minutes.

The PRESIDING OFFICER. The Senator from Kansas is recognized for an additional 3 minutes.

Mr. KENNEDY. Mr. President, I would like to make a brief comment on what the Senator from Illinois has said.

To get back to what I think was the thrust of the observations of the Senator from Kansas, it was to the effect that the figures which I had presented in my comments some weeks ago, as well as those in the committee report, were inflated. He said that we do not have the documentation from the Defense Department with respect to the figures.

I challenge the Senator on that statement. I wish he had been able to be somewhat more precise, and I wish that the Defense Department would be more precise about the matter.

The fact remains that one of the reasons we have failed to focus on the problem is that we have not been able to get the kind of figures we need. It has only been after very detailed and exhaustive study and working with AID that we are able to get the figures.

I think as I stand here today that we realize that there has been some 1 million civilian casualties, including 300,000 deaths. It is important that the American people understand that fact and realize that dimension.

It is regrettable that a percentage of those people have been casualties because of U.S. involvement through search and destroy missions and the like, as well as Vietcong terror. But the real question is what we are going to do about it.

The basic issue and the basic question are an indication to the American people of the cost of the tragic war in terms of the Vietnamese.

Let me give an example that we saw in our visit to some of the refugee camps. There is an extraordinary refugee camp in I Corps. I believe, into which the military moved thousands of Montagnard tribesmen from their villages 3 weeks before harvest time. They put the camp in a low, hilly area of red clay in which the Montagnards were unable to grow anything. For some reason or another, the food supplies were slow in coming to the refugees, and thousands of them went back and started harvesting. That was a free-fire zone, and thousands of the refugees, because they went back into the areas of their fields, were wounded or killed as a direct result of H. & I. fire. That is a tragic situation—that because of poor management and the lack of supplies they felt compelled to go back.

These are the kinds of things which are regrettable, and which the American people should know something about.

Mr. GURNEY. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. I yield.

Mr. GURNEY. As I understand, the thrust of the argument of the Senator from Kansas is to bring out the other side of the story, namely, that some of our people in public office and some out of public office have a great tendency, certainly in the last 2 or 3 years, to take a sort of masochistic point of view so far as the involvement of United States in the Vietnam war is concerned. They seem to take pleasure in bringing out, or are under some compulsion to bring out, the bad things and attribute them to the Americans over there and also to the forces of South Vietnam.

As I understand, the Senator from Kansas is trying to correct the record and say there is another side to the story within the whole area of civilian casual-

ties and what the Americans are doing in Vietnam.

I recall visiting hospitals in Vietnam which were run by the Marines in the I Corps area, where, for the first time, South Vietnamese civilians were receiving medical aid. Never before in their lives had they received medical aid. For the first time, they were getting doctors' care, good doctors, care, from American doctors, and with American medicine that had been sent over there. They had never received any of this kind of care before in their lives.

I recall a hospital run by the 3d Marine Division. They are not in Vietnam any more; they were among the first units that came out. They were conducting a children's hospital they had set up sometime before and were bringing medical aid to little children in this area of Vietnam for the first time. These people had never received such care before. This had nothing to do with war. This was medical attention the Marines were giving the Vietnamese simply because they wanted to bring something into their lives that they had never received before.

I remember seeing American doctors in the civilian hospital in Danang, the largest city in the I Corps area. Our naval and Marine doctors were serving in that hospital after they had finished their regular performance for the Marines in taking care of our casualties. They were working almost around the clock, on a 24-hour basis.

As I understand, the Senator from Kansas is trying to bring out some of these things so that the American people will know what America is doing in Vietnam for civilians and civilian casualties, in the area of bringing medicine to them for the first time.

I congratulate the Senator from Kansas for bringing this matter to the attention of the Senate and to the attention of the American people.

The PRESIDING OFFICER (Mr. HUGHES in the chair). The time of the senator has expired.

Mr. DOLE. I ask unanimous consent that I may have 3 additional minutes.

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

Mr. DOLE. I stated earlier that this exchange could be very helpful. It has clarified many things in my mind, and I appreciate the comments of the Senator from Massachusetts, the Senator from Florida, and the Senator from Illinois.

As the Senator from Illinois clearly stated, the basic difference between our policy and the policy of the enemy is that their policy is one of torture and ours is one of compassion. This is a difference that we should discuss, rather than have it implied, at least by news stories, that the Mylai incident is a way of life for the American fighting man. Having been an American fighting man in Italy, many years ago, and knowing a little about how innocent civilians are injured and killed, I feel certain everyone regrets this happening to innocent civilians. But, as the Senator from Illinois has pointed out so well, in South Vietnam there have been repeated efforts by the allied forces to remove civilians from battle areas and fire zones.

So perhaps we have at least pinpointed the matter under discussion. Americans are trying to protect civilians and we have an obligation to care for injured civilians, but it follows the obligation to care for the American fighting man.

I do not believe that the American fighting man, whether in South Vietnam or Germany or wherever, has ever been ordered, as a matter of policy, to do anything but carry out the war. He has not been ordered to do the things that some newspaper references would indicate, that is, kill civilians—children and women—as a matter of American policy. It is regrettable that civilians do suffer in the natural course of war. We all agree with this.

We do have an obligation, as the Senator from Massachusetts has said, to treat those who have been injured or wounded. But I want to know how many of these casualties are because of Vietcong action, how many because of enemy action. To say that it has been stimulated by the American forces, to me, could indicate many things. I am not certain what the word "stimulated" means when used in this context.

Again, I would quote from a story in the Washington Post, discussing civilian deaths and injuries, dated December 3, by George Lardner, Jr., in which the senior Senator from Massachusetts is quoted as saying, "But the majority have been stimulated by the ARVN and U.S. forces."

I yield the floor.

Mr. KENNEDY. Mr. President, I think we have examined this matter. I felt compelled to respond to the Senator from Kansas in terms of his statement that the figures I had used were without some basis. I stand by those figures. I refer to page 16 of our report, which sets forth in considerable detail—and it will be included in the RECORD—the exact reasons for reaching those figures. I challenge the Defense Department to supply different figures or different conclusions, if it has them. These figures are based upon the AID official records and our own observations.

In terms of the second question, on "stimulation," I think my observation at that time was not different from what the distinguished Director of the AID agency, Mr. Hanna, testified to, as I quoted earlier.

As to how we reach those figures, and that can be open to differentiation in interpretation of the figures, we have made our judgments on that. But I feel that regardless of who causes these civilian casualties, we have an obligation. If a child is burned because of a flamethrower in the hands of the Vietcong or because of a phosphorous bomb of the United States, we have an obligation to do something about it. It is interesting and it is worth while to try to say that the Vietcong are responsible for 30 or 60 percent of it. But those people are in need of help and assistance. It always has been my position, and I think it is the position of the members of the Senate Subcommittee on Refugees, that we ought to be providing as high a priority in pursuing the care and consideration of civilian casualties, whether they are caused by Vietcong or American GVN activities, as we pursue in terms of fighting the war.

Mr. DOLE. I would conclude by saying that the Vietcong are directly responsible for civilian casualties, whether deaths or injuries; and if we are the cause of civilian casualties, it is an indirect, unintended result of our war effort. It is not a policy of our American fighting men.

Mr. KENNEDY. I do not know whether it is indirect when a bomb drops from a plane or when somebody is shot with a rifle in a village. How can it be said that one is indirect and one is direct? The point is that if people are wounded, we have a great responsibility to look after their welfare. I think a great deal more is being done by AID and by the Defense Department. They have built some eight or nine—I think it is eight—new hospitals in Vietnam which are caring for civilian casualties, and have opened three military hospitals. The private sector is doing quite a bit, as well. Doctors are being sent to Vietnam. That program was set up at the request of President Johnson. Many doctors are going there for various periods of time and many return for a second tour. The MILPHAP teams, including Marines, Air Force, and Army, go out and provide care to refugees. Those people should be congratulated and commended; and the Armed Forces should be congratulated and commended. I do not underestimate their contributions. The Public Health Service has done a great service in preventing diseases. Many civilians are now alive who would be dead if they had not received inoculations and other Public Health treatment. So there are some signs which are encouraging. No one seeks to minimize the extraordinary accounts of generosity, which can be seen by anyone who visits Vietnam, in terms of the personal generosity of the American fighting man.

To end the discussion on a harmonious note, both the Senator from Kansas and I want this made known today.

Mr. DOLE. I do not say that the Senator from Massachusetts had said otherwise. Some believe that once the American fighting man gets a rifle in his hands and lands on foreign soil he becomes a bloodthirsty hoodlum, setting upon child, woman, or disabled citizen with the intent to kill or injure.

As has been stated in the last few minutes we are people of generosity and of compassion. If there is some isolated incident let us punish those who are guilty, but let us not have a sense of national guilt or national shame or describe the American fighting man as something that he is not. It is not our policy to inflict casualties upon the civilian population but it is the policy of the enemy.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WILLIAMS of Delaware. Mr. Pres-

ident, I ask unanimous consent that the order for the quorum call be rescinded.

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

ORDER OF BUSINESS

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

WORKERS FROM MEXICO

Mr. KENNEDY. Mr. President, the influx of low-paid workers from Mexico is one of the significant factors contributing to the grinding poverty in many areas along our southern border. Although the problem has festered for decades, it has only been within the last 2 or 3 years that a truly concerted effort has been made to sort out the fact of this complex situation and find reasonable and humane remedies.

In addition to various inquiries conducted by congressional committees—and these are continuing—a number of private individuals and groups have also become intensely involved.

Especially commendable, and certainly a welcome indication of growing citizen concern throughout the country, has been the recent field study conducted by a task force of representatives from labor unions, religious organizations, and other groups associated with the American immigration and citizenship conference in New York. The task force is currently preparing a report of its findings and recommendations, which I am sure will make a major contribution toward greater understanding of the need for reform in a significant area of public policy.

As I suggested earlier this month, I am extremely hopeful that needed reform will be accomplished in the next session of the Congress.

In this connection, I wish to call attention to an excellent article summarizing the situation regarding the influx of workers from Mexico. The article, of October 20, published in the Nation is written by Sheldon L. Greene, general counsel for California Rural Legal Assistance.

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

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

[From the Nation, Oct. 20, 1969]

WETBACKS, GROWERS, AND POVERTY

(By Sheldon L. Greene)

(Mr. Greene is general counsel for California Rural Legal Assistance and a specialist in litigation challenging the employment of nonresident alien labor.)

SAN FRANCISCO.—The bracero program died in 1968, after a long illness. Under its provisions, 4.5 million Mexican temporary workers were brought into the United States between 1942 and 1963 as supplementary farm labor. Officially terminated by Congress in 1963—long after the World War II labor shortage which it was intended to ease had ended—it finally trickled to a halt in August 1968 when Secretary of Labor W. Willard Wirtz denied a request by California tomato growers for 2,200 Mexican farm workers. He characterized this refusal of legal entry as "a historic step towards healing the migrant worker sore in California and in the entire United States." But current 1968–69 immigration records show the apprehension of 150,000 Mexican nationals who had entered the United States illegally, and the incidence of these wetbacks in American employment is perhaps triple the number caught. This would suggest that Secretary Wirtz's cure is at the most cosmetic.

Illegal entry by Mexican nationals has afflicted domestic low-income workers since World War II. In 1942, after Mexico had agreed to supply temporary workers under the bracero program, Texas farmers refused to meet agreed wages and working conditions. In response, Mexico for a time cut off the supply of workers, but U.S. Immigration authorities permitted thousands of Mexicans to cross the border illegally. They were then apprehended and "paroled" to Texas farmers, thus avoiding the terms of the international labor agreement. Farmers and border industries got cheap labor; domestic farm workers and El Paso garment workers and meat packers suffered wartime inflation but were forced to accept low wages if they wanted to work at all.

In 1954 the President's Commission on Migratory Labor studied the border labor problem and concluded: "The United States having engaged in a program giving preference in contracting to those who had broken the law, has encouraged a violation of the immigration laws. Our government has thus become a contributor to the growth of an illegal traffic which it has responsibility to prevent."

That same year, the Justice Department launched Operation Wetback, a roundup of more than a million illegal entrants in an area stretching as far as St. Louis and Chicago. San Antonio alone harbored 331,000. The roundup seemed so successful that the Immigration and Naturalization Service stated optimistically in its 1955 report that it had ended the wetback problem. The boast proved premature.

The Border Patrol and the Investigation Section of the INS are diligent, outnumbered and outmaneuvered. The comparatively few illegal entrants who attempt to cross the natural, and for the most part barren, frontier on foot are easily spotted by the continual overhead observation of Border Patrol spotter planes; they are then picked up by ground patrols which run along exfoliated drag strips. Some few aliens risk their lives in airless car trunks and campers, or precariously flattened on a ledge beneath passenger cars. Such trips cost from $100 to $300. One recently ended in death by asphyxiation.

But for 70 to 80 per cent of the illegal entrants access is neither hazardous nor romantic. More than a million Mexican aliens carry visitors' permits. These salmon-colored cards, issued by the Mexican Government at a cost of about $80, authorize visits of seventy-two hours in an area not more than 25 miles from the border.

But the aliens, most of them, are not looking forward to a visit. The typical wetback meets an agent in Mexico who provides him with a routing or a contact. Once across the border, he is transported to a city, often Los Angeles, and there referred to a job. In some instances, the agents provide transportation by selling a group of wetbacks an automobile, in which they can better elude detection. Those who lack the cash are offered a "go now, pay later" plan under which the price of the car is deducted from future wages.

Once inside, the alien easily merges into urban or rural Chicano barrios. Anyone can get a Social Security card by filing an application; proof of legitimate entry or birth certificate is not required. Employers record the Social Security number and couldn't care less about the worker's status. It is a felony to induce an alien to enter the United States, to harbor him from detection; but conservative legislators from farm districts have managed to exempt the employer of an illegal entrant from that chain of complicity, even when the employee is known to be a wetback.

Agriculture absorbs the bulk of the illegal entrants. During fiscal 1968, 38,950 of those apprehended were doing farm work. Wetbacks are preferred by most farmers because they are thought to work harder than Americans and to complain less about conditions. The minimum wage for farm work in California is $1.65 an hour; wetbacks in labor camps are lucky to earn $1.35, not enough to live on in California but four times the Mexican minimum wage. The rich regions of California are dotted with the grim labor camps which formerly housed *braceros*. Wetbacks now live in many of them, hidden well off public roads on land posted against trespassing.

While most wetbacks seek farm work during the busy seasons, substantial numbers are kept on the year around, or find off-season jobs during the very periods when domestic farm workers, residents of the area, are unemployed and dependent on public assistance. Winter unemployment in farm regions runs as high as 16 per cent of the domestic labor force; in California alone idle farm workers require $15 million in public assistance. Ten thousand wetbacks were caught in the five states that make up the Southwest in February 1969. From this figure one can asume that from 10,000 to 40,000 low income families were displaced from jobs by wetbacks during the winter months, at a cost in taxes and loss of domestic wages amounting to tens of millions.

Surveys show that the prevalence of wetbacks also depresses wage levels, and encourages employers to ignore the laws governing wages and working conditions. Union leaders find it difficult to organize in areas saturated with wetbacks. A nationally reported example is the stubborn resistance Cesar Chavez's United Farm Workers Organizing Committee has encountered in its efforts to sign contracts with the California table grape growers. Strikes are not a compelling argument with employers who can rely on Mexican nationals, and the union has been forced to organize a nation-wide consumer boycott of table grapes to achieve its purpose.

Displacement of local workers by wetbacks is no longer a predominantly rural problem since illegal entrants increasingly gravitate to more permanent jobs in the cities. From 1,500 to 3,000 of them are caught each month in the Los Angeles metropolitan area. Recently, the Border Patrol uncovered a smuggling operation which specialized in supplying wetbacks for industrial jobs in Chicago.

Despite the seemingly impressive figures of apprehensions, the wetback problem is not being brought under control. The program is hampered from the start by a shortage of manpower and equipment. As one patrolman in the Stockton, Calif., area put it: "We stake out Route 99 and the smugglers hear of it and take another road. There aren't enough of us to cover all the main highways all the time." On any given day, approximately 3

officers are on duty in the five Southwestern states.

A more basic problem than the size of the Border Patrol is the ease of entry afforded by the visitor's card and the absence of administrative controls on its use. The zone of travel permitted by these cards (with no record kept of entry and departure) was recently reduced from 150 to 25 miles from the border and that is making it easier to tag violators en route to the big cities. Since the reduction, systematic road checks on approaches to Los Angeles have turned up hundreds of aliens with no residency documents.

However, Border Patrol officials complain privately of the Justice Department's failure to require fingerprints as part of the permit procedure. Lacking that identification, it is almost impossible to spot previous violators when they reappear at the border, and wetbacks who have been returned to Mexico reenter again and again, visitor's permit in hand. Also, since no record is kept as to when a seventy-two-hour visit begins, a Mexican who has eluded detection for weeks or months can depart unquestioned.

The very volume of violators has dictated an informal handling of those caught, and this also fails to discourage the increasing traffic. Illegal entry is a crime for which the violator may be prosecuted in the federal courts and formally deported by the INS. Re-entry after such a deportation is a felony. But resort to these remedies is infrequent. The present policy is to allow the illegal entrant to leave voluntarily within three days of apprehension. Often he is permitted to get to the border on his own. Or he may be taken to a detention center in El Paso, Tex., or El Centro, Calif., to await bus transportation to the interior of Mexico at U.S. Government expense. Not only does the wetback get a free trip home but back wages are collected for him by Border Patrolmen. Voluntary return is likened by an INS administrator to a "game warden who discovers a hunter without a license and helps him carry the deer he's killed out of the park." Multiple returnees are seldom prosecuted and are formally deported only after the fourth, fifth or sixth entry, unless they are caught assisting other wetbacks to cross the border. A formal deportation procedure takes no more than fifteen minutes, and does not require the services of an attorney, but the INS claims that there are insufficent hearing officers to handle all the possible cases and that in any case deportation wouldn't stop the alien from trying again. Authorities do not even officially notify a grower when illegal entrants are found on his land.

United States attorneys and judges regard illegal entry as an economic crime of low priority and most Americans sympathize with the wetback, who is after all a very poor man trying to get ahead. Few jurists or juries appreciate the relationship between illegal entry and the plight of the domestic poor. Federal prosecutors have little time even for wetback smugglers, accepting only aggravated cases for prosecution. Despite the high apprehension rate in Northern California—3,500 in August 1968—there has been almost no prosecution of smugglers or transporters. Officials suggest that strict enforcement, involving due process for each alien, would choke court dockets, overburden U.S. attorneys and tie up patrolmen as witnesses. The more pessimistic add that extensive prosecution would ultimately fill the prisons to capacity—a line of reasoning not applied to marijuana cases. INS investigators are hampered by the taciturnity of wetbacks, who refuse to say how they entered the country or who helped them to do so. Aware that failure to cooperate will not land him in jail, the alien has no inducement to reveal what he knows of the smuggling operation.

Recent lawsuits brought in California by domestic farm workers against growers using wetbacks allege that such employment is an unfair business practice calculated to lower their wages, diminish their employment opportunity and force them to seek public assistance at the taxpayers' expense. While employment of illegal entrants is exempt from the legal sanctions against harboring wetbacks, farm workers charge that growers are nevertheless criminally implicated, since offering wetbacks, employment and shelter from detection is aiding and abetting in the crime of illegal entry. This resort to self-help law enforcement by the poor is a reflection on the failure of the Justice Department to perform its dtuies.

The ambivalence of the INS in the area of illegal entry is striking. The search for violators is persistent but ineffectual, and it seems clear that more could be done. The service operates on a budget of $86,450,000, more than half of which is committed to the four states bordering Mexico. Detention and transportation of apprehended illegal entrants, alone costs $1.6 million, yet no funds can be found to hire more hearing officers and increase the number of formal deportations. Nor is there money to increase the Border Patrol and investigation staff, despite increased illegal entry and the much heavier work load demonstrated by the higher apprehension rates.

An obvious need is the fingerprint identification of seventy-two-hour permit holders. INS officials argue that it would be impractical to match the fingerprints of apprehended wetbacks against those of 1 million cardholders. Yet the need to check at most 500 fingerprints a day, the obstensible average number of wetbacks caught in the peak months, is small compared to the FBI's work load of 32,000 identifications a day from a file of 15 million sets of prints.

The replacement of cards at four-month intervals would make it easier to revoke the cards of violators. A requirement that holders of the unlimited entry permit post a bond to secure observance of the terms of entry, a device authorized in related immigration laws, could be an effective deterrent. Other steps could be taken to provide more effective enforcement. A recent act which authorizes a federal magistrate to handle petty crimes could undoubtedly speed the prosecution of numerous smuggling offenses as misdemeanors. Formal deportation following the second illegal entry within two years, the power to assess administrative fines in lieu of prosecution (thereby attaching a portion of the wages earned), and even the right to confiscate the vehicle used in the transportation of illegal aliens, as is done in narcotics smuggling, would also discourage the border hoppers.

Important remedial legislation is before House and Senate. A bill to prohibit the intentional employment of a person illegally in the United States was introduced on March 26, 1969 by Sen. Edward Kennedy and Rep. Michael Feighan. The measure is co-sponsored by nine Senators and twenty-three Representatives. But even if passed, it will not result in many prosecutions, since the present difficulties of proving smuggling will be compounded when the federal attorney must submit his case to a jury. However, the abrogation of the employment exemption, combined with occasional well-publicized prosecutions and stiff fines, should cure many employers of hiring wetbacks at bargain rates. Similarly, a bill introduced by Senator Mondale would amend the National Labor Relations Act to make it an unfair labor practice to employ aliens unlawfully present in the country, or to hire nonresident commuter aliens during a labor dispute. Any of these measures, applied for several years, would provide increasingly effective deterrence to illegal entry.

Even so, the problem of the wetback will remain as long as the Mexican-American border is open, the border economies remain interdependent, and American earnings are five to ten times the Mexican wage. But in our increasingly technological society, with its chronic unemployment among the low-income unskilled and semi-skilled workers, it is a problem which cannot be ignored. The continued use of nonresident Mexican labor in border areas, a concession to the artificiality of the border, should be coupled with affirmative enforcement of wage standards and labor laws to provide domestic workers with earnings commensurate with living costs, at least equal access to jobs, and the freedom to bargain collectively.

Moreover, urban and rural areas distant from the border have no interdependence with the Mexican population and economy. Lack of enforcement in such places, except for the futile apprehension-return cycle, is really a subsidy to certain industries and subverts the Administration's policy to "move people off the welfare rolls and onto the payrolls."

Despite the good record of the Border Patrol, administrative deficiencies in coping with the inflow of illegal entrants cannot be explained entirely by a lack of imagination or a lack of funds. It is not pure fantasy to conclude that the policy of the Justice Department on illegal entry is to do just enough to avoid wholesale criticism, without arousing the serious anger of anti-union employers who favor an abundance of cheap labor.

THE PRESIDENT'S THREATENED VETO OF THE HEW APPROPRIATION BILL

Mr. METCALF. Mr. President, the old saying, "I didn't know whether to laugh or cry" probably best describes my reaction when I heard President Nixon's threat to veto the HEW-Labor-OEO appropriations bill.

The ludicrous aspect of the announcement—making known his decision to veto a bill before its contents were known, before the amounts to be included had been resolved—somehow appealed to my sense of humor. But then the tragic element of the President's threat came to mind. Inflation is to be fought at the expense of people—the poor, the old, and the sick. Apparently, we were being told, we are expected to fight inflation by cutting back on education of our children, on our libraries, on health research, on support of public health services in our States and communities.

I want to make known right now my complete disagreement with any such premise. I want to make known too my alarm over the fact that the President has singled out this appropriations bill which by all odds most directly affects the lives of the American people and, to my mind, he has placed programs important to our Nation's most precious asset quite clearly in jeopardy.

I do not believe the President has a copyright on concern over the danger of inflation. Further, I believe that Congress has acted responsibly in dealing with appropriations bills. There is no question in my mind that a part of the reason for reducing the appropriations for the Department of Defense $5 billion below the President's budget recommendation was a concern over inflation. But a $1 or even

$2 billion increase over the President's request for services to people still amounts to an overall reduction from the President's own recommendations. Is Congress to have only the prerogative of cutting appropriations? I realize that our budget is the cumulative total of the several departments and agencies but what is this apparent sanctity of an artificial vertical budgetary arrangement whereby the sole consideration is, "How much did this Department get last year, and how much will we allow this year?" Cannot Congress decide to expend less on one area and more on people?

My review of what has happened this year on the HEW appropriations lends credence to, at best, a myopic view of the budget process and at worst, a callous attitude toward the needs of our citizens. It would appear that a decision was made by President Nixon to hold the 1970 HEW budget to the 1969 level. This raised an immediate problem because an additional $1 billion over 1969 was required for mandatory increases in the social and rehabilitation services, primarily for AFDC and the title 19, or medicaid program and Social Security Administration. So the decision was made to slash the Office of Education programs by $1.3 billion below the 1969 levels of funding. Our colleagues on the House side voted overwhelmingly to refute this decision. If there was any word from 1600 Pennsylvania Avenue about a veto at this juncture, I failed to hear it.

The Senate Appropriations Subcommittee then went to work and after many days of hearings and through the efforts especially of the distinguished chairman, the Senator from Washington (Mr. MAGNUSON), and the Senator from New Hampshire (Mr. COTTON), a number of modest increases were recommended to the Senate. Senators are familiar with these actions and voted to approve them. They included added funds for air pollution control, mental health, migrant farmworkers, heart disease-cancer-stroke control, the National Institutes of Health, elementary and secondary education, and others. But additionally, right here on the Senate floor we decided that additional increases were needed. These actions were marked by the same nonpartisan approach which has been the case whenever this body dealt with health, education and welfare programs, at least since I have been a member of the Senate. The first amendment, increasing funds for air pollution control, was, as I heard the discussion, really a joint proposal of the Senator from West Virginia (Mr. BYRD) and the Senator from Delaware (Mr. BOGGS). Indicative of support from Senators of the President's own party were those voiced by Senators COTTON, COOK, MURPHY, and PERCY.

Next came the addition of funds for the OEO. On this amendment a rollcall occurred and, according to my count, 27 Members who are of the President's political persuasion joined with 33 Democrats to provide the almost 2 to 1 purality.

The next amendment, to provide more funds for rubella vaccine, was offered by the Senator from Indiana (Mr. HARTKE). There followed the amendment by the Senator from California (Mr. MURPHY) on manpower development and training. Next an amendment by the Senator from Texas (Mr. YARBOROUGH) for added funds for schools of public health. The final money amendment was proposed by Senator ALLOTT on education funds for impacted schools. I have taken the time of the Senate for this capsule recitation simply to point out that, to my mind at least, the Senate views appropriations for health, education, and welfare needs of our citizen as a concern which transcends partisan politics and which should not be sacrificed upon some imaginary altar of fiscal responsibility. I say again—the fight against inflation is not the responsibility of the poor, the sick, and the aged; and because of the bipartisan support which is indicated, I believe there will be support adequate to override that threatened veto.

MOTION PICTURE CLASSIFICATION SYSTEM

Mr. MCCLELLAN. Mr. President, on September 22 I initially addressed the Senate concerning current trends in the motion picture industry, and the possibility of television showing films which have been classified as not suitable for a general audience. I indicated at that time that I was sending a questionnaire to the networks, all commercial television stations and the leading film producers and distributors inquiring as to their policy on the subjects discussed in my speech. In my remarks of November 21, I discussed the replies which I have received from the broadcasters.

I wish to commend Dean Burch, Chairman of the Federal Communications Commission, for the interest which he has manifested in this important question of public policy. He has directed a study by the Commission staff and the public comments that he has made indicate that he is fully conscious of the Commission's responsibility. I am also pleased that the distinguished senior Senator from Rhode Island (Mr. PASTORE), chairman of the Subcommittee on Communications, is also pursuing this matter in his typically courageous and vigorous manner.

I have now received responses to my questionnaire from most of the leading film producers. Without exception these responses are most unsatisfactory. Not a single company has a policy against offering for sale to television those movies which have the classification of "X" or "R." As members are aware, "X" movies are those which by the standards of the Motion Picture Association's Code and Rating Administration are not suitable for minors. "R" movies are those which have been classified, because of theme, content, or treatment, as not appropriate for viewing by persons under 16 unless accompanied by an adult.

The uniform response of the film producers has been that it would not be desirable for them to restrict the films which are offered for sale to television, and that it is the responsibility of the broadcasters to determine whether a particular film is suitable.

In discussion of this issue, reference is repeatedly made to the possibility that certain cuts may be made in these movies to make them suitable for television. The standard answer that is given to those who object to certain scenes in a movie is that they are essential to the overall treatment of the film. If this is so, how can a film producer justify offering a film for sale to television with the prospect that significant cuts will be made. If the sequences eliminated are not crucial to the film, then we must conclude that they were initially included solely for purposes of commercial exploitation.

Following my original speech I received considerable mail and other expressions of interest urging me to pursue the entire subject of the film classification system.

Many Americans have raised their voices against the moral tone of much of the film industry. The industry has justified the permissive nature of many movies by contending that film classification prevents minors from viewing objectionable movies. The information currently available to me raises significant questions as to the desirability and effectiveness of the film classification system.

Mr. President, I am opposed to Government censorship. My present position is that it is far preferable for the film industry to put its own house in order. Virtually every day I observe additional indications of public concern. I noticed in the Wall Street Journal of December 10 an article discussing the reasons for an increase in Sunday shopping in Columbus, Ohio. One of the women interviewed in this article stated that she has taken to Sunday shopping instead of going to the movies because "a lot of the picture shows these days are so dirty that they are not fit to go to." In the same State, Representative ROBERT TAFT, JR., included in this year's questionnaire to his constituency the following question:

> Should the Federal Government attempt to impose standards of decency on the movie industry by Constitutional Amendment if necessary?

Fifty-seven percent responded in the affirmative and 37 were opposed. I understand that a public opinion survey recently taken on behalf of the film industry revealed a surprisingly substantial segment of the public favoring some form of Government regulation.

Under these circumstances, I believe it is desirable that there be a complete independent review of the film classification system. I have, therefore, decided to schedule public hearings on this question next year and have directed the staff of the Judiciary Subcommittee on Copyrights to prepare for such hearings. I anticipate that the subcommittee will hear the views of representatives of the film industry, theater operators, broadcasters, film critics, performers, clergymen, educators, parents, and others who can be of assistance in evaluating this complex subject.

The subcommittee will also wish to consider the experience of other countries that have adopted film classification systems.

CAMPUS PROTESTS

Mr. INOUYE. Mr. President, I invite the attention of the Senate to the thoughts of John McKenzie, a student from Hawaii who is presently attending the University of California at Berkeley.

I believe his ideas on campus disruptions are worthy of our attention and serious consideration.

I ask unanimous consent that the article, published in the Honolulu Advertiser on October 19, 1969, describing Mr. McKenzie's views, be printed in the RECORD.

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

HAWAII STUDENT JOHN MCKENZIE GIVES VIEWS ON CAMPUS PROTESTS

(By Kristl Lee)

(This week's column is written by Nicki Lee's sister, Kristl, about a fellow Berkeley student, John McKenzie, who is also from Honolulu.)

McKenzie, a '65 graduate of Iolani, is a veteran leader in the Associated Students of the University of California (ASUC).

After serving as ASUC senator for two years, McKenzie is now the first ASUC academic affairs vice president (AAVP), a position created last spring and to which McKenzie was appointed.

As vice president, McKenzie will propose to the University community academic reforms, including revision of the academic calendar.

(The most important proposal will be for student representation on the Academic Senate committees.)

"Violence can be avoided in protest if students are directly included in the decision-making process," John McKenzie said during an interview at Berkeley.

"This can include sitting on Academic Senate committees to help define their education, or being on the Board that draws up campus master plans that decide whether a soccer field or park needs to be built."

McKenzie, who has begun his graduate studies in public administration, originally planned to continue graduate work at Harvard's John F. Kennedy School of Government, but decided to remain at Berkeley and in the ASUC.

"If the AAVP job is performed well," he said, "it may mean opening up opportunities for hundreds, maybe even thousands, to directly participate in the decision-making processes of the university. I had to stay to help do that."

He has already proposed student-faculty forums as a means of understanding in depth. * * *

"We are trying to change the nature of confrontation on this campus," he said, "from physical to oral, and thus, make the confrontation between the administration, faculty and students more creative."

"I am concerned about confrontation, but I believe the social frustrations and difficulties are the real issues.

"Reduce the inconsistencies and conflicts of logic and principle which are in the way," he said, "and you will, in part, move to prevent a recurrence of violence by street radicals.

"The frustration that students felt in regard to the park issue and others like it is the inability in a centralized technological society, to have their own environment planned as they desire it."

McKenzie regretted that open confrontation appeared inevitable "in too many instances on campus, in the city and ghetto, unless something socially constructive is done."

He hopes that out of the crises and confrontations, which he feels are dangerous opportunities for change, there will emerge "constructive and creative alternatives to apparently present-day outmoded decision-making processes."

But politics is not necessarily McKenzie's total way of life.

"Politics itself," he said, "has no intrinsic interest to me. It is only significant as it becomes a way of helping oneself and others discover greater meaning and creativity heretofore undiscovered in their lives."

"Politics can be, at worst, a single self-interest game, or at best, a group effort towards social change, in the sense of its hopefully positive effect on the social environment and on the group itself."

McKenzie also feels that in the present "extremely fragmented" society, bringing people together in a constructive effort may be a major accomplishment.

McKenzie recommends that each student become involved in some student activity, project or effort "to see if there isn't some ability or dimension in each person not yet discovered.

"By becoming involved in the AAVP work," he continued, "I have come to confirm what I suspected—that among the faculty, there are a lot of great minds with great concern about student learning conditions who have previously been frustrated by conditions of bureaucratic distance."

McKenzie, who feels Hawaii students have never had a chance to study their own government, helped set up and teach a course on Hawaii's problems.

The course was based on the history of the different ethnic groups in Hawaii as related to today's culture and future.

McKenzie said "the course was a success because we got people together, and the way people dropped in and out of the course, made it an interesting innovation.

"Concerning Hawaii, I fear it is losing its own personality, losing much and gaining very little in the process. It's becoming more like a suburb to any of a number of Mainland cities."

McKenzie said Hawaii is not undergoing a sudden change. "In fact, I discovered that Hawaii has been undergoing major changes since 1790. Every generation seems to be alienated by changes and the recent changes have been an extreme process."

Though disappointed in some of today's changes, McKenzie still feels strongly committed to the islands. "If I decide to return, I want to come back with a definite commitment to the State."

McKenzie would like to study the relationship of youth and ethnic groups to government, and also attend law school.

"I want to help youth avoid the difficulties of growing up," the political science major said. "Youth has become a time of crisis today, with the war and drugs problem. I hope to help youth groups discover themselves, to recreate and to redefine who they are, I want to create opportunities."

McKenzie has already begun to create opportunities for students at Berkeley, by striving for patient and peaceful settlement of student-administration differences. All that is needed now is a time.

AMERICANS FOR BIAFRAN RELIEF

Mr. KENNEDY. Mr. President, recent efforts by Ethiopian Emperor Haile Selassie to bring about negotiations between the parties to the Nigerian civil war have apparently collapsed, and so the conflict continues and so does the suffering and death of the innocent.

At least 1,500,000 persons have died of starvation and disease since the beginning of the war, and the death rate in Biafra alone reportedly continues at a well over 1,000 persons a day—mainly women and children.

The principal lifeline of those who survive is the airlift of food and medicine operated by Joint Church Aid—JCA—from the nearby island of Sao Tome. JCA is a consortium of religious agencies, including Catholic Relief Services of the U.S. Catholic Conference, Church World Service of the National Council of Churches, and the American Jewish Committee. Each night, under hazardous conditions, the airlift of four planes makes repeated landings at the Uli airstrip in Biafra. The planes are supplied by our Government and so is most of the food.

The tremendous cost of operating the airlift, however, is carried in large measure by the voluntary agencies.

Last spring, a number of concerned citizens got together and formed Americans for Biafran Relief—ABR—to encourage support for the airlift among all Americans.

ABR has done a magnificent job, Mr. President, and, more importantly, our citizens have responded with deep compassion for their fellow man in need. Given the pace of the conflict in Nigeria-Biafra, there is little doubt that the airlift will be needed for some time into the future. It is hoped that public support for ABR efforts will continue, so that all the work accomplished thus far in helping to relieve a very great human tragedy will not be lost. All those involved, especially the dedicated people in the field, deserve high tribute from all of us.

Mr. President, because of the broad public and congressional interest in the human tragedy produced by the Nigerian civil war, I ask unanimous consent to have printed in the RECORD, a recent press release of ABR, a list of its directors and sponsors, and several recent newspaper articles on the current situation in Biafra.

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

AMERICANS FOR BIAFRAN RELIEF OPEN "CHILDREN'S AIRLIFT" EMERGENCY DRIVE

NEW YORK, November 25.—Cliff Robertson, actor and vice president of Americans for Biafran Relief, today announced an emergency "Children's Airlift" drive—to save two million Biafran children from immediate starvation.

Robertson, with Roosevelt Grier (actor and former professional football player), John D. Rockefeller, IV (Secretary of State, West Virginia), and Jack Yogman (Executive vice president, Joseph E. Seagram & Sons) will head the drive run by Americans for Biafran Relief. The funds raised—$9 million—will go to Joint Church Aid, an interfaith religious group which operates the flights to Biafra. The nine million dollars is for a period of six months.

At a press conference held at the Overseas Press Club in New York City, Robertson also presented a check for $25,000 from Americans for Biafran Relief to Bishop Edward E. Swanstrom, executive director, Joint Church Aid, U.S.A.

Robertson pointed out that the $25,000 would provide food for 100,000 children for

20 days, at a minimum daily ration of two ounces of high-protein food per child.

"This action," Robertson said, "is just enough to keep these children alive, just enough to sustain life for these small bodies."

In accepting the Check, Bishop Swanstrom said, "Thank God for people like yourself who are trying to keep this cause before the American people."

According to current statistics, over a million Biafran children have already died; the two million left face imminent death by starvation if they are not reached.

Mrs. Candice Jordan, president of Americans for Biafran Relief, noted that "The beginning of this campaign is something symbolic, coming two days before Thanksgiving . . . when Americans eat and eat and eat and mothers will tell their children to finish everything on their plates."

Mrs. Jordan added: "The campaign is an affirmation of the sanctity of the life of the child, an affirmation of life over death . . . that children should not die because of the political quarrels of their elders."

Joint Church Aid is a consortium of religious groups from Europe and North America who fly nightly from the island of Sao Tome. Its American members are the American Jewish Committee, Catholic Relief Services and Church World Service. Until last June, both JCA and the International Red Cross were flying food and medicine in, but on June 5, a Nigerian MIG shot down one of the Red Cross aircraft and the Red Cross has not resumed flights.

Cost of the airlift, as outlined by Joint Church Aid, is $4,000 per flight for each of the C–97 Stratofreighters used, or some $50,000 per night. This does not include the cost of food or medicine. Each C–97 carries 16 tons of these supplies, enough for 256,000 children for one day. "But," Mrs. Jordan noted, "these children who were fed yesterday, must be fed today and again tomorrow."

It was noted at the session that the United States government is cooperating. It has made the C–97s available at scrap prices—about $4,000 each, and is also providing large quantities of CSM, a high protein corn/soya/milk food.

Joint Church Aid now has 16 planes in its fleet, flying under extremely hazardous conditions. Earlier this month, JCA lost a Norwegian aircraft when it was bombed on the runway in Biafra. To date, 25 crewmen have died while flying for the airlift.

To aid in the emergency drive, Rabbi Charles Mintz of the Union of American Hebrew Congregations announced that his organization will co-sponsor a series of benefits with Americans for Biafran relief. The UAHC will organize a number of premieres—across the United States—of Dave Brubeck's new cantata, "The Gates of Justice."

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[From the New York Times, Dec. 21, 1969]

BIAFRAN CHILDREN PURSUE THEIR EDUCATION AMID NIGERIAN AIR RAIDS

LISBON, December 20.—An Irish missionary who has been a leader in the Biafra relief movement returned from the war zone last Monday and reported that day-to-day life was growing more routine there.

The missionary, the Rev. Dermot Doran, said for example, that schoolchildren were studying hard for exams although bombing raids by Nigerian aircraft have been intensified.

The open-air schools, often nothing more than the shade of a palm tree, are functioning for the first time in two years, Father Doran reported.

"The Biafrans have adjusted themselves to suffering and are trying to make the best of it," the priest said in an interview after a month-long mission in Biafra for Joint Church Aid. This Biafran relief organization is made up of Catholic Relief Service, Church World Service and the American Jewish Committee.

375,000 BACK IN SCHOOL

Some 375,000 children—many of them recovering from kwashiorkor, the protein-deficiency disease—went back to school two months ago, said the priest, a member of the Roman Catholic order of the Holy Ghost. The schools consist of a group of stools beside a trench because all school buildings have been bombed out or turned over to refugees.

"The kids work hard over their slates until their alert ears pick up the sound of a Nigerian bomber," Father Doran said. "Then they cry out 'Jet! Jet!' and dive into the trenches to wait until the raid is over."

The Biafrans are now better organized and so are the relief workers, according to the priest. However, they are still totally dependent on the relief airlift, he said.

The Biafran airlift was started by the Holy Ghost fathers two years ago. Twenty-seven men have lost their lives and 16 aircraft have been destroyed in the effort to assure Biafra's lifeline. Only Tuesday, a Canadian Superconstellation was blown up during unloading in Biafra. There were no casualties and the relief flights have continued as before.

The airlift, based on the Portuguese island of São Tomé, is working better than ever now, Father Morgan said, despite increased Nigerian bombing of Uli Airport. Joint Church Aid has been getting an average of 20 flights a night, with 320 tons of supplies, into the blockaded territory. Sometimes there are as many as 28 flights a night, he said.

The backbone of the airlift, according to Father Doran, is three C–97 Stratofreighters, provided by the United States Government, which can carry 16 tons of supplies on each flight and make at least two trips nightly. A fourth C–97 rotates with the others for overhauling, which is done at Tel Aviv. The American air crews and the Irish and Biafran ground crews have developed a system whereby they can unload the supplies on the unlit Uli airstrip in four and a half minutes, he said.

Father Doran criticized British suggestions for the creation of a helicopter relief run into Biafra. "What we need are three more C–97 cargo planes, which would be much better than a fleet of helicopters," he said. "With seven C–97's we could take into Biafra its minimum needs of 500 tons a day to keep the population from starving.

According to medical personnel in Biafra, the death rate has gone down, the kwashiorkor is less evident and epidemics have been avoided, thanks to the relief program. But there has been a general slow deterioration in the health of the population as the war drags on.

THERE'S LESS FOR EVERYONE

"There has been a gradual rot; as time goes on there's less for everyone," Father Doran said. "You know things are bad when the élite, the lawyers and doctors, who were able to pay extravagant prices for yams and cassava at the beginning of the year, now can't get food for their children."

Dr. Aron Ifekinigwe, chief pediatrician of the university hospital at Emekuku, told Father Doran that many people were very weak.

"Now with the harmattan [the cool parching wind from the Sahara] children are dying from common colds," Dr. Ifekinigwe declared.

On the whole, however, Biafran children are getting better care than they did a year ago. More than 4,500 children have been evacuated to São Tomé, Gabon and the Ivory Coast for medical care. At the same time, there are two new children's hospitals: one opened by the French Red Cross six months ago for 1,000 of the worst kwashiorkor cases and another for 500 children, opened last week by Caritas. The Children are given six weeks of intensive care, then taken to rehabilitation centers for three more weeks. After that, most are ready to go home.

[From the Washington (D.C.) Post, Dec. 21, 1969]

BIAFRAN AIRSTRIP IS AFRICA'S BUSIEST: NIGHTS ARE FILLED WITH TERROR

(By Jim Hoagland)

DAR ES SALAAM, December 20.—As Wednesday night's Nigerian air raid on Biafra's Uli Airstrip so grimly demonstrated, it is the Biafran relief workers who load and unload relief planes who face the most danger in the deadly bombing attacks.

Five Biafran workers died on the Wednesday night bombing that also destroyed a Canair relief plane.

It is not remarkable that the members of flight crew, who earn their $150 a night by flying to an unmarked, unlit airstrip in all

kinds of weather, escaped unhurt. The crews wisely clear away from the planes while they sit on the Uli Airstrip.

THE "INTRUDER"

But the several hundred men and youths who transfer the relief supplies from the aircraft to a convoy of rattling old trucks are on the airstrip for hours night after night, as Nigeria's converted DC–4 that has been nicknamed "The intruder" drones overhead.

One starry night late last month two dozen relief workers unloaded 7 tons of gasoline in tin drums from a plane that had just flown in from Gabon. (The gasoline was apparently intended for relief agency vehicles.)

There had been no sign of the Intruder that night, but using flashlights, the relief workers quickly guided three visiting journalists off the plane and told them to get away from the area. Then, singing a work song, they trundled the heavy drums onto the trucks by hand.

Uli, which is actually little more than a widened road, is said to be Africa's busiest nighttime airport. It is certainly the most exciting.

On a good night, 18 flights take off from the small island of Sao Tome, 400 miles away, and two from Gabon.

When they reach the Nigerian coast, the planes douse all lights and fly on in darkness that is broken only by the distant flicker of village campfires far below.

There is a tiny beacon near Uli that they home in on, often circling for hours while waiting for the frequent fog patches to clear, other planes to be unloaded, or, if they know he is in the vicinity, for the Intruder to run low on fuel and head home.

LITTLE RADIO CONTACT

The pilots maintain little radio contact with Uli. If the fog is heavy, they may ask the men on the ground to give them a visibility reading, which is often useless because the only way ground control can determine visibility is by shining a flashlight as far as possible toward the clouds.

When he is ready to land, the pilot sends a coded radio signal that lets the occasionally overanxious antiaircraft gunners know he is one of theirs and not a Nigerian attacker.

As the plane glides toward blackness, ground control switches on the flood lights around the runway for a few seconds, the pilot sets his final course and the lights go out again.

During taxiing to an unloading berth, the lights flare again and another Constellation roars off the runnway, sparks from its engines showering the black sky.

On hand to watch over the unloading is at least one of the Catholic priests of World Council of Churches officials who distribute relief inside Biafra. They, like the Biafran workers, spend hours on the airstrip. Some of them even come down on their nights off to watch the planes, a display of needless risk-taking that unnerves a visitor.

WITHOUT LIGHTS

These risks can be very real, as the visitor discovers on his way out of Uli. It is a night when the Intruder is there to see you off.

You are driven in a station wagon without lights along an approach route that is littered with jagged tree trunks, put in the road and on the airstrip itself in the day to prevent Nigerian planes from landing there.

Suddenly a blinding flash creases the night as a small bomb explodes in the air between the car and the airstrip. Immediately there is the deceptively soft glow of antiaircraft tracer bullets floating up after the Intruder and then silence as the wait for the Intruder to go away begins.

Endless minutes later, it is decided that the Intruder is not directly overhead, and loading resumes.

As it is nearly completed, you are given a hearty handshake, a flashlight and are told to run for the plane. The run is less than a hundred yards, but takes a short lifetime. At the base of the plane's metal ladder stands an Irish priest, an incongruous smile on his face. "Welcome to Air Biafra," the priest says. "And God bless you."

As the plane creeps off the runway and wheels to the right, the lights go off again and Biafra sinks back into darkness.

TERROR LIVES ON

The terror does not stop. It lives on inside you for sometime. Perhaps John Lennon had a point when he said this week that he and Mrs. Lennon had passed up a Biafra trip because they did not want to become "dead saints."

The five Biafrans who died the day Lennon said that did not have that choice. But whether they become national saints is likely not to depend on what they have done so much as which side wins this civil war.

[From the Washington (D.C.) Evening Star, Dec. 9, 1969]

BIAFRA BECOMES A NIGHTMARE

(By Michael Goldsmith)

UMUOYE ETCHE, BIAFRA.—At the wheel of her Land Rover, Sister Gertrude of the Holy Rosary Order drove 20 ailing children away from the sick bay here so they could be flown to the neighboring country of Gabon for treatment that may save their lives.

Umuoye Etche is the only place for medical treatment in a huge bush area containing some 136,000 refugees from the Nigeria-Biafra civil war.

Crowded together in windowless huts are 290 of the worst cases of sickness and starvation from the surrounding refugee camps.

A doctor visits the patients once a week but generally can do little to help.

TOO SICK

Many are too sick to survive the rough two-hour trip to the nearest hospital in Owerri—even if there were room to take them there.

The refugees get a meal every second day.

Patients in the sick bay eat three times a day but nearly all suffer from kwashiorkor—a protein deficiency disease, in addition to tuberculosis, hookworm or one or more tropical diseases.

Small children, bones showing under wrinkled skin, sit staring listlessly through deeply sunken eyes. Their skeleton-like mothers crowd around an iron pot filled with garri—the staple food made from ground cassava root—holding out cracked plates or empty cans for their ration.

"Mothers go into the bush to have their babies," Sister Gertrude said. "We can't even guess how many of the babies die at birth."

There are both children and adults in the sick bay. Thousands more are waiting to be admitted but have to be turned away for lack of space and food.

The coughing of tuberculosis patients and screams of hungry babies ring through the smoke-filled darkness of the huts. "It's very cold in here at night so we have to let them light fires," Sister Gertrude said. "The smoke is very bad for them but we can't afford to build anything better."

LACK OF FUNDS

A teaching nun from Dublin, Sister Gertrude has had no medical or even nursing training.

"I do the best I can," she says.

Taking two hours to drive the 30 miles from Owerri, she came here to choose the 20 children to be flown to Gabon in the nightly relief plane of the French Red Cross.

Some 4,000 Biafran children are in Roman Catholic relief camps in Gabon. Thousands more probably could be saved by evacuation, but departures are limited by lack of space and funds.

Sister's batch of 20 were the first children to leave Umuoye Etche since the sick bay opened a year ago.

"The choice should really have been made by a doctor," Sister Gertrude said. "It's useless taking those too far gone to have any chance at all. I have to try to pick out those among the worst cases who have a reasonable chance of survival."

A few hours after she drew up her first list of 20 children, seven of them had disappeared into the bush with their mothers—perhaps to die.

"They would rather keep their children than save them," Sister Gertrude said.

"So I had to pick seven others to take their places. And all morning long, while we were preparing to leave, there were mothers trying to hold them back."

[From the Washington (D.C.) Post, Dec. 7, 1969]

BIAFRA SITUATION IS NOT HOPELESS ONE

(By Henry Owen)

Few Americans probably read a short news item last week announcing that an emergency drive was being launched to raise private U.S. funds for starving children in Biafra; the main headlines that day were about Songmy. But even more lives are at stake in Biafra than Vietnam. As many as two million Biafran children will live, or die, or grow up stunted in mind or body, depending on what is done in the months ahead.

There is a widespread view in this country that the situation is beyond repair. This is dead wrong. It rests on three misconceptions:

Misconception No. 1 is that the only answer to Biafran starvation is ending the war. The fact is that food relief is highly effective. It has already saved the lives of as many as two million Biafrans, mostly children.

Misconception No. 2 is that relief hinges on opening a surface corridor between blockaded Biafra and the outside world. This would be the best answer, and negotiations to this end are important. But massive relief can pass, and has passed, through the existing air corridor. Earlier this year there were as many as 40 cargo flights per night and this largely met food needs. Now there is about half that number of daily flights; but this is still saving the lives of most children in the vulnerable age group. Clearly, air relief works.

Misconception No. 3 is that there is a "right" side and a "wrong" side in the dispute between Biafra and Nigeria over relief, and that this should somehow condition our approach to the problem.

Nigeria is doing what comes naturally to any government, including our own a century ago: using force to put down secession. It is using a time-honored method—blockade—to this end, and is no more anxious than the Union was in the Civil War to weaken that blockade by letting civilian supplies through. Biafra, on the other hand, believes that it is reliving the American Revolution—trying to create a new nation. Facing a militarily hopeless situation, its leaders are not above using the plight of children to dramatize their case to the world.

Our business is not to judge these two governments, but to prevent them from destroying a whole generation of Biafran children. The lives of these children rest largely on a small fleet of airplanes, which fly into Biafra every night from the nearby Portuguese island of Sao Tomé. Twenty-five crew members have lost their lives so far in these flights. Although they are mounted by Joint Church Aid International, an ecumenical organization which draws on several countries for crews and funds, the lion's share comes from the United States.

It will cost about $9 million to keep these

flights going another six months. Perhaps by then the war will be over. Translating this $9 million into children's lives is difficult, because reliable data are scarce, but it seems to work out at a little over $10 per child; relief agencies estimate that 1,000 children are dying daily now and that this would increase to about 5,000 if the flights were to stop.

Most of the costs of Joint Church Aid are met, directly or indirectly, by the U.S. Government. But some private funds must be raised. Earlier this year, Biafran relief was "in" and that money was easy to raise. Now people seem to be bored with the whole thing, and it is hard to come by.

Few Americans would pass a child on the verge of death and not fork up a few dollars to save him. But it's hard to picture that child without seeing him, and it's harder still to send the money to an anonymous New York Post Office box number (Box 4030, Church Street Station, New York City, in case you're interested) than to hand it over in person. But this is what the whole thing hinges on.

The need is not only to keep the flights going, but to expand them—in order to save the children who are still dying. The obstacle here is a shortage of bases outside Biafra from which to mount these flights. Joint Church Aid is using its existing base to capacity. Before June, the International Committee of the Red Cross was mounting as many as 20 flights nightly from other bases. When one of its planes made the mistake of flying at dusk and was shot down by the Nigerian air force, Red Cross officials suspended flying until an agreement for daytime flights could be worked out with Nigeria and Biafra. This was a tragic—if understandable—miscalculation. That agreement was never reached.

Even if the Red Cross should decide to resume night flights, it would probably find the countries from which it formerly flew reluctant to permit new flights—for fear of offending Nigeria. Ditto for other nearby countries which might otherwise provide new bases. Perhaps vigorous efforts at persuasion by the United States and other interested countries would do some good. More distant African bases may be available, but it would only be economical to use them for high value cargo—protein, vitamins, etc.—in view of the large fuel requirement. The idea of stationing a carrier off the coast has come to nothing. Apparently no country (not even Great Britain or France) believes that it can spare one from urgent operational needs; or perhaps they are deterred by the possibility of Nigerian attack.

So the problem—whether we are talking about keeping up existing flights or expanding them—boils down to one simple question: How seriously do people outside Biafra take the whole business? It has receded from the headlines, but children are still dying. In the wake of Songmy, our response to their need may tell a good deal about what kind of country America really is.

[From the Washington (D.C.) Post, Nov. 14, 1969]

HOW MANY CHILDREN DYING IN BIAFRA? NO ONE CAN SAY

(By Jim Hoagland)

OWERRI, BIAFRA.—Drifting out of the morning mists that rise in the palm tree forests, the naked and ragged children of Biafra fill the roads and walk to the relief feeding centers.

Some carry pails, hoping to bring back a little stockfish soup that they get three times a week. Others carry their brother or sister, too weak to walk, on their backs.

Since June 5, they have found less stockfish at the feeding centers. Since March, they have found less food growing in the fields, because of Biafran losses of territory. In the meantime, they have begun to die again in large numbers.

"How can I tell you how many children are dying a day?" Dr. Aaron Ifekwunigwe, Biafra's leading child specialist, asked with exasperation. "Pick any number you like and I'll say it. The point is they are dying."

He spoke after walking through the grim last hope ward at the Santana Hospital, which houses 600 children suffering from kwashiokor, the killing protein deficiency disease.

Nine children died last night, a young French nurse told the Biafran doctor. The usual death rate at the hospital over the past few months had been three a night.

Dr. Ifekwunigwe and dozens of relief workers interviewed here report a new pattern of death is emerging in the tiny, landpoor African enclave which has been blockaded by Nigeria for 28 months.

The problem now is not so much kwashiokor as marasmus—in layman's terms, plain starvation, said Dr. Ifekwunigwe. "We're getting in a little more protein than at the worst times of 1968, but we don't have the carbohydrates available we had then. We don't have as much land to farm."

Marasmus is a slower death than kwashiokor. It is less sensational for photographs. But it is just as sure.

Nine days of traveling through the Biafran enclave found only isolated pockets of large numbers of children with distended stomachs, pinkish red hair and bloated hands and feet dangling from matchstick limbs—the classic signs of kwashiokor.

Pictures of such children brought Biafra to the world's attention in September and October, 1968, when thousands of them were dying each day along the roadside.

Despite threats from Nigeria, which is locked in a civil war with Biafra, the International Committee of the Red Cross and religious bodies grouped as Joint Church Aid, flew in emergency relief supplies and brought kwashiokor fairly well under control by late spring.

But on June 5 the Nigerians shot down a Red Cross relief plane. The Red Cross which had supplied about 60 per cent of relief, suspended its flights and has not resumed them.

This partial relief stoppage brought predictions from many experts outside Biafra that the death rate of children would immediately shoot up again to the 1968 level.

This has not happened—yet. But many here view the next two months as the crisis period.

The church groups, which have continued to defy Nigeria, have been able to step up relief flights in the past two months and have filled some of the gap left by the Red Cross.

They are now making between 15 and 20 flights a night when Nigeria bombing of the airstrip at Uli is not intense.

But it is not nearly enough, says Father Angus Fraser, a Catholic priest who supervises one of the 47 relief camps around Etche. There are 97,000 persons in the camps.

They, like most of the estimated 2 million other refugees in camps scattered around Biafra, receive three relief meals a week.

A relief meal averages out for each person at about an ounce of stockfish (a high protein dried fish from Iceland) mixed into a cornmeal mush reinforced with vitamins.

These are the lucky ones, says Father Fraser. Across the Otimiri River from Etche are 40,000 refugees who are in even more serious trouble. Relief supplies must be ferried by canoe to them and then head-carried seven miles through the jungle.

The priest estimates that the situation in Etche, which is 30 miles southeast of Owerri, is much like that at other refugee camps—more deaths in the past few months, but not as many as in late spring.

Kwashiorkor is rampant in Etche, which has provided many of the 4,000 Biafran children who have been flown to Gabon for special treatment.

Weeping mothers crowd around Father Fraser, holding up children that are little more than skeletons, begging him to send them to the Gabon hospital. He can only take a handful of the worst cases. Then the mothers weep even more at the thought of being separated from their children. One night recently after he had selected 20 children seven of them disappeared, taken back by their mothers.

Another 4 to 6 million people are estimated to be jammed into the Biafran enclave with the 2 million refugees. At least 3 million of them have been dependent on the hundreds of feeding centers set up separately by Caritas, the World Council of Churches and the Red Cross.

Before the June stoppage, the Red Cross operated 904 feeding centers with 500 persons getting three meals a week at each.

The church groups have donated 10 per cent of the relief they fly in to keep the Red Cross centers open. It is now clear that the effort is failing and the Red Cross is on the verge of closing down its food operation.

It has pared down the number of persons being fed in each center to the 100 worst cases. Asked what happens to the other 400, ICRC representative S. E. Naucler said, "I do not know. There is nothing else we can do."

The Red Cross is in the process of handing over 200 feeding centers to the church groups to operate.

Local foodstuffs grown under the Biafran army's land plan are dwindling rapidly. Another harvest is not due until January. November and December are the danger months of the current shortage.

"We thought we had saved a whole generation of children," said one Catholic priest. "Now we are almost back where we started. It is not only the food itself, but the fact that the relief was coming in that gave people enough hope to go on living, waiting for more. Now that hope is fading, and they give up."

How many are dying of starvation, is as Dr. Ifekwunigwe pointed out, an almost unanswerable question in a wartorn society that has little time for statistics. The low estimate seems to be about 400 a day, with other current estimates being 1,000 and 2,000.

Four hundred miles away, on the flyspeck island of Sao Tome that is the jumping-off point for the relief flights, an impatient Catholic priest named Anothy Byrne paces daily inside a large warehouse where 10,000 tons of relief food is stored.

"We have the food," Father Byrne says. "We just cannot get it to them. These children know nothing about secession, economic blockade, political involvement. They only know they are starving."

[From the Washington (D.C.) Post, Nov. 16, 1969]

BIAFRAN STRUGGLE: ENDLESS NIGHTMARE

(By Jim Hoagland)

OWERRI, BIAFRA.—The whump of artillery shells exploding in morning-moist earth break the pastoral tranquility of what is left of Biafra. By night, the crickets' chirps are silenced by the pom-pom-pom of anti-aircraft fire and the blinding flash and crack of bombs being dropped on the Uli airstrip.

After 28 months of civil war, Biafra's dream of carving out a new and cohesive African nation is ebbing into a seemingly endless nightmare of such terrifying explosions, numbing hunger and desperate hope for an improbable miracle of salvation.

That the secessionist state has survived this long is something of a miracle in itself. Outnumbered and outgunned, Biafra is sealed off from the world by encircling Nigerian troops. The Biafrans have fought Africa's first modern war with their backs to the wall.

They fight on in fear and bitterness, despite a new starvation crisis, an apparently increasing scarcity of arms and soldiers, and growing social problems.

PRESSURE TURNED UP

"The Nigerians have put us in a pressure cooker and keep turning the pressure up," Biafra's leader, Gen. Odumegwu Ojukwu, said recently, "We have to find ways to let the lid off once in a while."

The civil war that has split Nigeria, Africa's most populous nation, started in July, 1967, after Nigeria's former Eastern Region seceded and proclaimed itself the Republic of Biafra.

The war has been stalemated since last April, when the Biafrans dug in around this small road junction town of Owerri, their provisional capital, to await a Nigerian drive to end the war.

The offensive never came. Visits to the front lines of both sides recently suggest that the ground attack may not come, at least for a while.

The new Nigerian strategy, unarticulated but increasingly discernable, seems to be to starve the Biafrans out, to shatter their morale with air and artillery attacks, and to wait for them to crack.

NIGERIA'S ADVANTAGE

It is a strategy that is likely to enable the Nigerians—who have 130,000 soldiers to Biafra's 40,000 and who are much better equipped—to win, over the long haul.

Whether the strategy will net them anything but a hostile and wounded captive is a knottier question. Rancor and defiance permeate Biafra.

Outside a closed schoolhouse near the front, 100 boys and girls marched swiftly and efficiently on a recent afternoon, singing over and over "BEE-AF-ra win war!"

None of them was over seven years old. None was playful or happy about the drill. War is no game to them. The artillery shells were falling five miles away, and the sun was flashing off the wings of a Nigerian Mig circling overhead.

In an Owerri street, three teenage boys offered a visitor a pack of cigarettes for the equivalent of $12. They reluctantly admitted the cigarettes were made in Nigeria and smuggled into the Biafran enclave.

"But we will make our own," one said defiantly. "We are Biafrans. We will never again be Nigerians—never."

In a kwashiokor ward, where children who suffer from the killing protein-deficiency disease are treated, a white Catholic priest stared sadly at a nine-year-old boy. Even after a month of feeding and care, the boy weighed only 25 pounds.

"It is not easy to understand how parents can watch their children die like this, why they don't give up," the priest said. "But every one of them is convinced that the Nigerians will kill them anyway."

Joseph Okpara is, by Biafran standards, a lucky man. He is one of the handful of the enclave's people outside the government and army who has an income. But Okpara, a rest-house porter in Owerri, feels the cruel pinch of the war, too.

His $45 a month pre-war salary, on which he supported 11 children, has shrunk to $37 because of war taxes. Inflation that has skyrocketed prices by 400 to 800 per cent makes his pay almost meaningness, and Okpara has to borrow $40 a month to provide a little food for his family.

"The war is too hard," Okpara said. "We have to have peace. Living is too hard." Asked if peace was worth meeting the Nigerian demand of reunification, Okpara stiffened. "No sir. It is not possible. They come to kill us."

In short, Nigeria's recent campaign to convince the world that it is not bent on destroying the Ibo tribesmen who make up 90 per cent of Biafra's population seems to have had little effect here inside the enclave.

It was the slaughter of an estimated 30,000 Ibo tribesmen in northern Nigeria in 1966 that precipitated secession and war.

Conceived in fear and anger, united in suffering, Biafra has been rationalized by its intellectuals as the first truly African nation, one whose boundaries were not drawn by colonialists.

"We were pushed out of the old community, and had to forge a new one," says poet Michael Echerou. "The old formula having failed, we came back home to build something new."

But nine days of crisscrossing the enclave leaves the impression that, for all their spirit, the Biafran people have been able to build nothing materially as they have been bombed, shelled and slowly compressed into the Ibo heartland, an area of 3,000 to 5,000 square miles.

Deprivation inside Biafra is extreme for almost all its 4 to 6 million people, and is getting worse. Most of them have been reduced to a hand-to-mouth existence in which each day is a fruitless struggle for food.

More than half of them have been kept alive for the past year largely by relief food flown in by church groups and the International Red Cross.

The stoppage of Red Cross flights in June, after the Nigerians shot down a relief plane, has again pushed Biafra to the edge of famine, which will become more acute in the next two months.

This has disheartened relief workers and priests who have stayed inside Biafra to help. Even some of those dedicated to the Biafran cause are beginning to despair.

* * * * *

In fact, recent reports of growing demoralization among Biafrans actually appear to be reports of the demoralization of relief workers, who are among the best sources of information for visiting newsmen.

These workers are, of course, excellent weathervanes as to the mood of the people, whom they get to know well. Still, it is difficult for an outsider to penetrate to the real feelings of the closely-knit Ibos.

On the surface at least, the pressures of war appear to be pushing the Ibo society toward slow distintegration and, unless the war is ended, to a possible return to a primitive existence in the bush.

This would be an ironic fate for the Ibos, one of Africa's most advanced tribes. They were noted for their industry, quick adaptation to Western education, and a haughty pride bordering on arrogance.

All of Biafra's schools were closed when the war began. Last January some primary schools were reopened, often in jungle clearings and with no books or paper. The schoolhouses, which have been mostly occupied by the army for headquarters, are often targets for air raids.

"Our education system does not exist any more," said a Biafran. "The war starves the children's minds, too."

Much of the arrogance has gone. While it is remarkable to an outsider that there is not more begging in a starving society, the presence of children and women clustering around priests and foreigners, pleading for a crumb of food, is a danger sign to many Ibos, who detest beggars.

"Even high-level government people are coming to us now, shamefacedly and quietly asking for a little food," said one relief worker. "Things are getting desperate."

There also appears to be some inequality in the distribution of hardships. Army officers lounge in bars smoking cigarettes and drinking palm wine. The girls who accompany them often wear shiny earrings and lipstick. Of the few cars left in Biafra, most seem to belong to these officers.

Except for this, the plight of the army seems to be as desperate as that of the civilian population. Soldiers seen near the front were ill-clothed and ill-fed. Mostly, they must depend on food given to them—willingly or otherwise—by the civilians.

Col. Benedict Gbulie is the head of Aba Province, the only one of Biafra's 20 subdivisions that has a military administrator.

Gbulie, stressing that the local people willingly give food to the large number of soldiers in the area, conceded that his appointment was to help facilitate supplying the army.

Other sources report that troops sometimes raid farms to get food. It also appears that some of the relief food intended for civilians trickles into military hands.

A few soldiers were seen near the front with the distinctive stockfish supplies that the relief agencies fly in. Reliable sources indicated that these supplies probably were foraged from civilians, rather than given to the army by relief workers.

Ojukwu's recent assertions that his army is better armed and has higher morale than ever before do not seem to be borne out by observations made during this correspondent's stay in Biafra.

The army says it has dropped conscription and that villages contribute manpower through a quota system. But people in some villages report that if the quota is not met, the army comes and takes recruits—according to size, not age. In some instances, 12 and 13-year old boys have been conscripted.

The army has had to turn to old men as well. At a Biafran division headquarters recently, 20 new recruits drilled at midday. Most of them raggedly dressed. They drilled with wooden sticks instead of rifles.

In sharp contrast to the military checkpoints along Nigeria's roads, those of Biafra are usually manned by soldiers or policemen who do not have rifles or guns.

Troops only a few miles from the front also lack weapons, indicating that the reports of large-scale arms deliveries into Biafra recently may be exaggerated.

"We are very short of ammunition," said Col. Ita Okon, the principal staff officer of the 14th Division. "When we capture automatic rifles, our research people convert them so they will fire single shots. Our men can't waste ammunition.

Desertion is said to be on the increase. Some of the deserters have formed armed gangs that steal from the populace and relief workers.

A special commando force of 190 military policemen recently rounded up a large number of these marauders near Uli airstrip, where they had attempted to pilfer relief supplies.

Biafran authorities, and the civilians themselves, deal severely and summarily with theft, but it is a growing problem. A ton of relief supplies disappeared one night last month, for example.

"We never imagined this kind of thing could happen," one Biafran said sadly. "But deprivation is changing us all. We Ibos, who have always helped our brothers, now don't have the strength to help anyone."

Despite these agonies, Biafra still holds together, over all. This correspondent found no discontent with the Biafran leadership, or disagreement with its goal of independence. Public order is maintained surprisingly well for a war-torn society.

"That this is so tells you much about the horrors and the inspiration of Biafra," observed a non-Biafran source with keen insight into the situation.

"You can make a case that Ojukwu is as responsible for these conditions as the Nigerians, although nobody in Biafra will ac-

cept that," he continued. "Or you can make a case that the Nigerians are deliberately grinding these people into dust. Pretty soon, it won't matter any more who you blame."

[From the Washington (D.C.) Post, Nov. 23, 1969]

PEACE IN BIAFRA GOES BEGGING

(By Jim Hoagland)

NAIROBI, KENYA.—Analysis of recent ambiguous statements by Nigerian and Biafran leaders on peace talks leaves two paradoxical impressions. The first is that a real chance for negotiations now exists. The other is that neither side seems capable of seizing that chance.

Domestic and external pressures have been building on both sides to at least talk about ending the bloodiest civil war in modern Africa's history. These pressures constitute enough leverage to enable the leaders on both sides to tell their followers that they have to settle for less than they want.

Nigeria faces internal dissension in its west on nonwar issues. There is a growing war weariness among the Nigerian people who were promised two years and two million lives ago that the police action would be over in 48 hours.

Externally, the Lagos government is losing support among its West African neighbors. Sierra Leone looks ready to make good its threat to recognize Biafra unless talks begin. In Ghana, the new civilian leaders continue their official support of Nigeria but have unofficially begun to give voice to the high degree of sympathy that Ghanaians have for the Biafran cause.

Famine again stalks Biafra, and starvation and deprivation are eroding the spirit of the Biafran people. The ragtag Biafran army seems unable to mount major offensives. And the international support and sympathy that have played a key role in the Biafran gamble seem to be waning into apathy as the war drags on.

A GARBLED SIGNAL

In short, there is every reason for ending the war—now. But there is no formula for doing it. Brinkmanship, rather than conciliation, seems to be the aim of each side.

The pressures may account for the recent peace zigs and zags, culminating in this month's Biafran statements on sovereignty. Had they been handled more adroitly, those statements might have represented a clear signal to the world and the Nigerians that Biafra was ready to talk. As it is, they have only added to the confusion.

The first statement, released by the Biafran press agency in Geneva, quoted an unnamed spokesman as saying that "sovereignty is functional, not sentimental," and that Biafra would accept any alternative arrangement that could guarantee its internal security. Every indication that could be gathered in the Biafran capital of Owerri at that time was that the release was a mistake, the product of an overeager press man who put the wrong emphasis on a Radio Biafra commentary.

In any event, the wording itself was not exactly new, as the Nigerians were quick to point out in scoffing at the statement. The Biafrans have said before that they would accept a plan drafted by a third party that could effectively protect them from the Nigerians. The problem is that no one has ever devised a plan satisfactory to the Biafrans and Biafra's top negotiator, Sir Louis Mbanefo, told me two days after the statement was issued that Biafra must have a voice in world bodies to ensure its security.

A BLUNTED SABER

The confusion surrounding the first statement served to obscure statements made to a press conference later that week by Biafra's leader, Gen. Odumegwu Ojukwu. He retained credibility among his people by rattling the saber and vowing to fight on, if necessary, but he also fuzzed the definition of Biafran sovereignty.

He fuzzed it sufficiently to give the Nigerians a face-saving path to the peace table—or, if the Nigerians are correct in saying that Ojukwu is not sincere about peace, a chance to call the Biafrans' bluff.

While not insisting on sovereignty completely at first, "we could go to the table feeling sovereign but ready for an accommodation," Ojukwu said. He did not specify what kind of accommodation, but he could hardly be expected to.

Both sides seem to be trapped in their insistence on public vindication of their positions before they will deign to stop the killing and talk to each other. The Nigerians demand that Biafra accept reunification with Nigeria as the only subject for talks—in effect, a demand to surrender and then talk about the terms of surrender. The Biafrans, for their part, are thwarting one of the most important peace initiatives in recent months by their concern for public vindication.

Several highly reliable sources say that the hierarchy of the Organization of African Unity and Ethiopia's Emperor Haile Selassie have removed one of the major stumbling blocks to talks by privately assuring the Biafrans that they will press for talks outside the terms of this year's OAU resolution which backs Nigeria's demand for Biafra to renounce secession before talks begin.

The Biafrans are insisting that this assurance be made publicly. OAU officials feel that this would hardly be conducive to meaningful talks.

The deadlock on talks at a time when they should be moving ahead seems to illustrate two important factors in the war that is Africa's agony:

Neither side feels that it can believe the other. The confusion over Biafra's November statements was matched by the incongruous incident in September when Nigeria's leader, Maj. Gen. Yakubu Gowon, said that Nigeria would accept talks without preconditions, only to have his information minister, Anthony Enahoro, say two days later that Nigeria would not accept such talks.

Many analysts interpreted this as confirmation of a long-rumored split within the Nigerian leadership, with Gowon in the dove camp that wants talks and Enahoro speaking for the hawks. But the distrustful Biafrans will not accept even this possibility. Ojukwu's top advisers say that the incident was carefully orchestrated to give the impression of Gowon wanting peace while doing nothing to obtain it.

Neither side feels weak enough to bargain. The week following Ojukwu's press conference saw major new air attacks by the Biafrans, which are likely to bolster Biafran hopes that they can hold out until the Nigerians are willing to negotiate. The Nigerians retaliated, according to reliable reports, by resuming bombing of civilian areas in Biafra, and are capable of greatly intensifying such bombing if goaded into it.

Lagos also does not feel that it should gamble on losing at the peace table what it has won on the battlefield. The Nigerians are confident that, at the least they can contain the Biafrans in a small enclave and wait for them to crack.

A recent visitor to both sides can see some of the frightening logic in both positions. But the fruits of this logic are likely to become even more bitter for both sides unless meaningful talks are started soon.

THE RAILWAY PROGRESS INSTITUTE

Mr. MOSS. Mr. President, I ask unanimous consent to have printed in the RECORD two documents concerning the work of the Railway Progress Institute, the national association of the railway equipment and supply industry, which has headquarters in Washington.

The first is a recent three-way interview between former RPI chairman, J. W. Henderson, Jr., new RPI chairman, Frank L. Bredimus, and RPI president, Nils Lennartson, which tells how the railway suppliers are trying to assist the railroads in solving some of their very serious problems.

The second is an excerpt from a talk by Secretary of Transportation John A. Volpe, giving a very friendly, firsthand appraisal of the effectiveness of the Railway Progress Institute. This talk was read by Federal Railroad Administrator Reginald N. Whitman at the annual dinner of the Railway Progress Institute in Chicago when Secretary Volpe was forced to cancel his scheduled appearance because of sudden developments in Washington.

I think both of these documents are worthwhile reflections upon the important work of the Railway Progress Institute.

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

SPECIAL REPORT ON RPI: SUPPLIERS SIZE UP THE 1970'S

Q. What is the biggest single problem confronting the railway supply industry today, in your view?

HENDERSON. I think that Railway Age in its Tomorrow's Railroads series has dramatically identified the major problem facing all of us in the railroad industry today. It is the need for a massive infusion of capital. And one thing is certain: Railroad earnings—less than 2½% on investment—do not begin to generate the needed capital. If it were not for the 7% investment tax credit, the railroads would probably be spending half as much as they are today on capital equipment; and expenditures today are at the bare minimum required to sustain the industry. We must not only protect present spending levels; we must substantially raise these levels.

Q. Assuming that we are able to obtain some tax incentives for railroads, what would you say prospects are for capital spending in 1970?

HENDERSON. I think we'll do well if the railroads are able to invest in 1970 at the level they have invested in 1969. You must understand that the railroads have this year placed a great number of orders in anticipation of possible repeal of the tax credit. For example, we received a great flurry of orders in May, soon after the President announced that he would seek repeal of the tax credit. But now the rate of ordering has diminished, in view of the heavy ordering earlier. I think the railroads recognize the great need for continued modernization and in the long run they are going to have to invest at levels above those of this year.

Q. Railroad capital investment in the last ten years has fluctuated widely between $1 billion and $2 billion. What in your view should railroads be spending to stay competitive?

HENDERSON. The Brookings Institution in 1959, in terms of dollars of that era, said that at least $2 billion a year ought to be spent for freight equipment alone. I would think that today a minimum figure would be in the neighborhood of $2 billion to $2½ billion a year.

BREDIMUS. I should think that $3 billion a year would be required for modernization to cover all aspects—track and structures and communications and signaling, as well as

rolling stock. I feel that 1970 should be a comparatively good year—I think spending should be slightly increased over 1969, with greater emphasis being placed upon right of way. The safety problem is one that is of great concern to all of us and will require very definite and precipitate action. This could very likely move the emphasis toward greater spending in track improvements.

LENNARTSON. Frank Barnett, chairman of the Union Pacific, has said that we need considerably in excess of $2 billion in capital spending, and Bill Johnson, of Illinois Central Industries, has said that we need to spend at least $1½ billion a year on roadbed alone, and he would consider $3 billion a year for total spending as minimal.

Q. How can we achieve this?

HENDERSON. Given today's restrictive regulation, and given the rising labor costs and the problems that railroads are having trying to improve car utilization with the latest and most sophisticated electronic devices, we don't see any sudden improvement in earnings. If improvement occurs, it's going to occur gradually, because labor costs are going to continue to rise, and we must remember that labor costs represent an inordinate share of the total cost of doing business in the railroad industry—close to 60%. So even with the continuing improvement in railroad operations, we don't see any upsurge in earnings coming quickly. This means that we have to face up to other methods of financing. And other forms of financing almost immediately require some form of government funds. The question that has so greatly bothered the railroad industry is, can they obtain government funds without getting government guidelines or controls? The government has generously helped other modes of transportation. Look at the highway industry. We are talking about something like $75 billion for a whole new network of highways. We're talking about airports, where 50% of funds for airport construction can come from government. And just look at the hundreds of millions expended by the Corps of Engineers on improving the waterways. And then look at the railroad industry. The only thing resembling Federal aid here is the trickle of money that has gone into Northeast Corridor passenger service (and while this is generally thought to be a Federal project, the Penn Central has actually spent five times as much money there as the Federal government has spent). So we've got to turn to the government for a feasible, acceptable means of financing.

Q. What means would be feasible and acceptable?

HENDERSON. This is a very difficult question, and one that remains to be worked out. Whenever a suggestion is made to railroad presidents, it carries—for many of them—the fear of government control. So there is a cautious approach to any proposal. But while we haven't found the answers, we are beginning to ask the questions. For example, is it possible for the government to provide funds at low cost—say 2% or 3%—to the industry with the understanding that this money could be paid back without controls? Or should the government itself be the purchaser of rolling stock, and lease it to the industry? Or—a third possibility—can some form of tax be imposed that could be used much as the user taxes on highways are used? These ideas have been kicked around. And we're pleased to note that the Department of Transportation, and specifically Reginald Whitman, the Federal Railroad Administrator, has been actively pursuing ideas which may be acceptable. Maybe the greatest thing that we can accomplish in this interview is to bring to the attention of all suppliers and railroad people that the DOT *is* looking for ideas.

LENNARTSON. As you know, the Federal Railroad Administrator has an assignment from the Secretary of Transportation to report to him by Jan. 1 on what should be done to help the railroads. We are working very actively with DOT on this, along with the railroads themselves and the AAR.

BREDIMUS. We talk about getting additional funds from the government. At the same time, there are other things that can be done that would help solve very definite problems such as overregulation. We feel, for example, that railroads must have greater flexibility in establishing rates so as to meet their increased costs as they arise. There's been a great deal of sluggishness in allowing rate changes after the increased costs are already in effect. We feel, too, that something must be done to expedite those mergers that normally, by proper guidelines, are considered as constructive. Also—and importantly—the railroads should be given more freedom to diversify into other modes of transportation as present restrictions seem to be too rigid. In the area of labor, we would hope that the brotherhoods will become more enlightened in their own self-interest. In the absence of this, it is certainly in the enlightened self-interest of the government—as it represents the public—to move constructively and forcefully in this area.

HENDERSON. I think it is important to emphasize, as Frank Bredimus has done, that Federal funds alone aren't the whole answer to the railroad's problems. There are long-standing inequities whose correction will be as good as money in the bank. When railroads are given a fair chance to compete, when they are able to extricate themselves from their labor difficulties, they can make it on their own.

BREDIMUS. Another great problem is that of passenger trains. The railroads should not be forced to bear the burden of passenger train deficits in order to satisfy a diminishing demand. Northeast corridor service is one thing. But long intercity hauls are another. My considered opinion is that this kind of service cannot continue and cannot be expected to continue without some definite government subsidy.

LENNARTSON. In the area of tax relief, we are hopeful to continue to try to get Congressional approval of railroad tax relief in technical areas already approved by the Senate Finance Committee as a part of the tax reform bill. These amendments proposed by the Treasury to the Senate Finance Committee, were worked out by representatives of the railroads, the AAR and the Railway Progress Institute, working with key people in the Treasury Department. As you know, these Treasury proposals, intended as an offset to the eventual repeal of the 7% tax credit, will enable railroads and lessors to railroads to take a five year amortization on all new rolling stock, including locomotives, and also allow four year amortization of the unrecovered costs of equipment acquired in 1969. The Committee also approved amortization of grading and tunneling costs on a 50 year life basis, a proposal for which railroads have been fighting for years. The Committee also voted to allow the cost of repairs to rolling stock as an expense without question where such cost does not exceed 20% of the original cost of the unit. PRI, working with its railroad friends, is continuing efforts to help get the Committee-approved actions voted by the full Senate and then agreed to by the House conferees. We are also continuing to work with Treasury and Congressional people to explore other technical areas in which tax relief for our capital-starved railroads may be warranted.

Q. To win all of these things, you must of course first convince the public, and the government, that railroads are in financial distress and that what happens to them is important to the nation . . .

LENNARTSON. Let's remember that the Department of Transportation itself has said that by 1975 this country will have 1.063 trillion rail ton-miles a year—that's a 42% increase from this year. And also remember that by 1980, the gross national product of this country will be 2 trillion dollars, or doubled in a decade. The Federal Railroad Administrator Reg Whitman, has commented that if all the freight trains in this country stopped tomorrow, the other modes of transportation will be hard put to pick up more than 10% of the total freight involved.

HENDERSON. I think this is the key point—that the highway system that we enjoy today has been coming into its own in the last 4 or 5 or 6 years. The trucking industry has had the benefit of this. But as we see the congestion on the highways increase, we're going to find a trend to other modes of transportation, purely because of capacity problems.

BREDIMUS. Which all adds up to this: Without a viable railroad system—which we cannot continue to have in our present financial circumstances and with our present methods of operation—our economy faces a most severe problem.

Q. What you're saying is that we're going to have railroads—that we can't do without them. But that brings up the question of who is going to run them. Will it be the private railroad companies or will it be the government?

HENDERSON. I haven't encountered anyone in government—and I certainly haven't talked to anyone in the railroad industry—who sincerely believes that the government can or should run the railroad industry. It has to remain in the hands of private enterprise, and it will if we are given the flexibility in decision making that is required to manage railroads today, and meet the competitive challenges of tomorrow.

BREDIMUS. The fact is that the cost of nationalization to government would be far greater than the cost of these comparatively small measures of relief that we've been talking about.

Q. Railway suppliers obviously have a big stake in all of this. What are the suppliers doing to help the railroads achieve some of these goals?

HENDERSON. In recent years, the Railway Progress Institute has tried to help rebuild the public image of railroads. Billions and billions of dollars have been spent to modernize the railroads, and the story needs to be told. We have found that it's much easier for a supplier to do this, because even though we are close to and dependent upon the railroad industry, nevertheless we have an arm's length situation. I think the public may sometimes be more readily willing to accept our opinions of the railroad industry than they are to take the word of those immediately involved. We have found great acceptance as we have toured the country, putting on over 100 presentations explaining the new railroads as we see them. That program we intend to continue.

BREDIMUS. May I add that those programs are constantly modernized and brought up to date so as to be of timely significance. By telling the story in this way, by constantly updating it, it is quite feasible to cover the same audience more than once, to keep them apprised of what is going on. The audiences we seek are business leaders, civic leaders, shippers and even railroaders themselves. We no longer have to seek out audiences, they seek us out.

Q. What evidence do you have that this image-building campaign has been successful?

HENDERSON. We can measure that in three ways. One is by the comments of the railroads. They have been totally favorable. Second, is the reaction of the people who have seen these presentations, and who have vol-

unteered their sentiments to us. And third is the increasing understanding by legislators of the railroads and the railroads' role, particularly those who have been exposed to our sessions. We don't find as much lack of knowledge about railroads today as we found two years ago.

LENNARTSON. As we go into these cities and towns, we also get a large amount of news and radio and television coverage, and this leads to grass roots impact. We feature in each presentation what is currently the problem of the day—if it's the fate of the 7% investment tax credit in Congress, well this becomes a news story, and wherever the presentation is being given, it gets a lot of people to know that railroads have a problem that they would not have known about otherwise.

Q. Has RPT's move to Washington accomplished its purpose?

HENDERSON. I think this has been a great thing, primarily for two reasons. One, it put our office in very close proximity to the Association of American Railroads as well as to government officials. On the 7% investment tax credit, the RPI membership has relied heavily on Nils Lennartson's knowledge of government officials, and we have been able to go in and work with the railroad industry in testifying regarding the negative impact of repeal. We have responded rapidly to the time schedules of Congressmen and Senators and Administrators. Equally important, our proximity to the Department of Transportation has meant that we've been able to provide assistance frequently on many issues to people on the railroad side of DOT.

LENNARTSON. And also on the mass transit side—a large number of our members are very interested in that program.

HENDERSON. The DOT, for example, has asked our help and guidance on safety matters. And we have asked member companies to appoint a safety liaison man, who is available for expert testimony to DOT as required, to help formulate safety guidelines.

Q. The railroads, and the mass transit industry, have their own representatives in Washington. Where does the RPI fit into this whole picture?

HENDERSON. I personally feel that RPI can bring a detached, more objective point of view. We can bring an added element of credibility to the case presented by the railroads. The railroads so long have fought their own battles. It's a new ball game when the suppliers also are standing beside the railroad industry.

Q. Is there close liaison between the RPI and the AAR in Washington?

LENNARTSON. There is a very close working relationship. Our only mission is to support whatever helps our railroad friends and the future of the railroad industry.

HENDERSON. When we started the initial round of advertisements in the Wall Street Journal and Business Week, keyed to the theme "Meet the New Railroads," we found that even some RPI members were not totally aware of what we were trying to accomplish, and many had great reservations about the program and the direction in which RPI was going. But having witnessed the success of the road shows—and in my judgment particularly the success which Nils Lennartson has had in working so closely with key members of the Administration along with officials of AAR—those who were once critical have now given unqualified endorsement of "the new RPI."

BREDIMUS. I think there's no question about this. And we all see in our frequent contacts with railroad leaders that they recognize that RPI is a very valuable asset to the railroad industry.

HENDERSON. The endorsement of RPI by the railroads poses a challenge to RPI in the future that it must always maintain a strong viable program, and this we intend to do.

Q. Mr. Perlman has mentioned the need, as he sees it, for more government R&D in railroad transportation. What are your views?

HENDERSON. We agree, and I think it can be done as it has been done in other industries. We have been invited to submit proposals for new product concepts directly to DOT as a research project.

Q. What specific projects would you suggest need R&D attention, with government participation?

HENDERSON. The list would be so long that it would be difficult to state here. Let's take the area of safety alone. For example, how can you have a bearing failure and not run the risk of derailment? Does this mean a different type of suspension? The supply industry, right now, should be making such proposals to the government and this we are working on.

LENNARTSON. One reason the suppliers aren't doing more on R&D goes back to the original question—the supply of money. If the railroads don't place orders, the suppliers don't have the money to put into R&D. If there were a better profit picture, we'd be doing more, but dollars are so tight that they just have to go into other places.

HENDERSON. This is one of the least understood areas of why we are so strongly in favor of the tax incentives. If a sufficiently high level of railroad purchases is maintained, then two things occur: One, we can indeed carry out the research and development in new devices that are so essential to the progress of the railroad industry. And the second thing is that the supply industry would no longer have to respond on a stop and go basis to railroad orders. When the railroads continue to purchase in cyclical fashion, we find that we're without people, then we can't hire them back. Just 15 years ago my company could lay off people and get back 85%; five years ago it was 50%; three years ago you could get back 25%; and today we're lucky if we get back 10%. And to start through the total cycle of retraining and acquiring the skills means that we can't respond—and if we can't respond, then how is the railroad industry, even given the go-ahead by government, to respond to its need to modernize?

BREDIMUS. One of the greatest problems for suppliers is getting a reliable return on investment. There are many things that can be done by suppliers, all costing money. But when you try to compute return on investment, and forecast what this business is going to be like over the next four or five years, it's very difficult due to the highly cyclical nature of railroad purchasing.

LENNARTSON. Freight-car supply is not, let me point out, our only problem. One of the things that RPI is trying to do in its visits with officials of the Executive branch as well as the Congress is to get understanding and awareness of the importance of locomotives. Too many people in Washington get the notion that a freight-car shortage can be solved only by putting more freight cars into service, and neglect to realize that if you don't have a locomotive to haul that train it isn't going anyplace.

HENDERSON. And there is also the question of roadbed, and new signaling and communication facilities. The point is, we need a massive infusion of capital, right across the board.

Q. The mood of the railroads is pretty pessimistic these days. Costs are rising, earnings are falling. We have just had to go for a 6% rate increase. How do you feel—immediately and long range—about the future of the industry?

BREDIMUS. The feeling in my own company is that over the long haul the inevitable increase in net ton-mile requirements will definitely build up the railroads. Some way or another there's got to be an answer and we're going gung-ho knowing that there will always be a railroad industry and that it *must* build up.

HENDERSON. We're not going to see a rapid change in the outlook. Yet this nation is going to be so dependent upon a viable rail system in the next 5, 10 or 15 years that the future can only hold great promise for the railroad industry. I feel that the transition from where we are now to that point isn't as great as some people think once we get the needed capital. I was much impressed by the recent comment of G. Russell Moir, chairman of the United States Freight Co., who said that one of the gravest problems facing all of us in transportation is how to halt and then reverse the alarming decline in popular confidence in railroads, the oldest and most indispensable form of common carriers. This is why the role of RPI in upgrading the image of railroads is such an important function.

Q. How solidly are the railway suppliers supporting the RPI's work—that is, in terms of membership?

LENNARTSON. The membership situation in RPI continues to be very favorable. We had a very dramatic spurt in membership a while ago when we went from 140 to 190 plus. The facts of life are that once you get that dramatic kind of a surge you get some people who come in for the sake of the drive and then drop out. So we've had some dropouts. But we've also had many new members and we are holding at about 195 members today. We're still trying to get some big industries that should be in but aren't. There are also some old-line suppliers who should be in and who are not. This includes some of the dropouts. We feel that in the next year we should try to impress on them that they in fairness should share this job of supporting their railroad customers with their colleagues who are doing so. But under Elwyn Ahnquist of the Pullman-Standard Company, the membership committee has been very active and has had a very good year.

Q. What kind of program do you have in mind for 1970?

HENDERSON. We don't see any change at this time in the direction we're moving. We will be doing more of the same. More—and, I hope, even better.

LENNARTSON. Bill Henderson was good enough to say earlier some kind words about the RPI staff and me, personally. I would like to make it a matter of record that all of us on the RPI staff—Bob Matthews, our outstanding secretary-treasurer; John Koenig, our fine new public affairs director, and Russ Griffin, our very efficient administrative assistant, as well as the girls, all join me in saying thank you to our "bosses" for the leadership, support and friendship given us. It is a great joy to work under chairmen and vice chairmen as Bill Henderson, Frank Bredimus, Ashley Gray and Art Smith and we look forward to enjoying interesting work with other such leaders of RPI in the time ahead.

EXCERPT FROM A TALK BY SECRETARY OF TRANSPORTATION JOHN A. VOLPE

Warm praise for the Railway Progress Institute as "a very effective organization on the Washington scene" was voiced at the annual dinner by Transportation Secretary John A. Volpe. In addition, Chairman Frank E. Barnett of the Union Pacific in a telegram of regret that he was unable to be at the dinner, said he was sorry to miss seeing "all of our friends of RPI who have recently given us such effective help".

Secretary Volpe made the following comments about RPI in the course of a speech read for him by Federal Railroad Administrator Reginald N. Whitman in accepting an award given jointly to DOT and Penn Central for the inauguration of the Metroliner:

"Not since the days of the westward expansion has the railroad industry been as needful of friends in Washington.

"And along these lines, let me say just a word about our hosts—the Railway Progress Institute.

"I know personally that it is a very effective organization on the Washington scene. Nils Lennartson, and key representatives of RPI have taken the 'railroad story' to cabinet officers and other key Administration people in Washington. They presented it to me and my staff people at meetings in my office. I was pleased to tell other key advisers of President Nixon that it was a very effective presentation of the railroads' financial straits and one that they should see. The presentation was given to many other Washington officials with considerable influence on the decision-making processes in the Federal government.

"I am certain that the tax relief in the form of five year amortization and other relief provisions which were recommended by the Treasury and passed by the Senate Finance Committee can be traced in large part to the briefings which the RPI organized along with the Association of American Railroads and individual railroads during September and October.

"I congratulate this national association of the railway supply industry for such an effective demonstration of assistance to the railroads of our nation which are plagued with serious financial problems.

"Working together, government, the railroads, the railway suppliers, and the public—must see to it that the United States of the future has all the benefits and possibilities that a modern, growing, efficient railroad system can provide. I am confident that each of you can and will respond to the challenge admirably."

DEDICATION CEREMONIES FOR SILVER MEMORIAL BRIDGE

Mr. SPONG. Mr. President, on Monday, December 15, at Henderson, W. Va., the Silver Memorial Bridge was dedicated and opened to traffic. This bridge was built to replace the bridge which collapsed into the Ohio River on December 15, 1967, with the tragic loss of many lives.

The speaker at the dedication was the distinguished senior Senator from West Virginia (Mr. RANDOLPH), chairman of the Committee on Public Works. He was followed by Mr. Francis C. Turner, Federal Highway Administrator, who represented the Secretary of Transportation. Mr. Turner's remarks portray the leading role which Senator RANDOLPH played in securing Federal funds with which to rebuild the bridge. I invite the attention of the Senate to the remarks of Mr. Turner, and ask unanimous consent that they be printed in the RECORD.

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

REMARKS BY FEDERAL HIGHWAY ADMINISTRATOR FRANCIS C. TURNER AT DEDICATION OF MEMORIAL SILVER BRIDGE, POINT PLEASANT, W. VA., DECEMBER 15, 1969

It is a sad and sobering honor to participate in the dedication of this bridge today—a bridge which incorporates skills and contributions accumulated over many generations from many people and embodies the determination of people to work together in the face of disaster.

Transportation Secretary Volpe has asked me to express to you his regret that he was unable to personally participate in these ceremonies. But I bring with me his satisfaction at what has been accomplished and his commendation for all those who contributed to the completion of this enterprise.

This is more than the dedication of a magnificent structure. It is also a tribute to the effective teamwork which has been built up between the State and Federal Governments in creative efforts of this kind.

Had it not been for the great State-Federal partnership built up during half a century through the operation of our vast highway program, with its interdependence of both technical skills and financing, there very well might still be a gap between the shores of the Ohio River at this point. Had it not been for the availability of ready emergency financing through the Highway Trust Fund the public property damage resulting from the disaster which occurred on this spot two years ago could have been repaired only by the imposition of a great burden on the people of these two states and this particular local community.

The memories and the heartaches of a disaster such as that which struck here two years ago can never be completely erased by what we do afterward. But many of the hardships can be eased and we can move forward to try to prevent others from suffering as did those who were victimized here.

Trained engineers, administrators and public officials at all levels have combined their efforts and skills to rebuild a bridge here in half the normal time.

Designs already prepared were made use of and administrative and construction skills tested and perfected on a thousand projects around the country were brought into play.

This was a teamwork effort at its best and this bridge stands as a symbol of your government at work in many ways by many people.

Thus there are hundreds of persons who deserve individual commendation for what has been accomplished here. Since we cannot identify them all we must use our representative form of government. Representing all of them are the Members of Congress. From that group I mention especially the Committees on Public Works of both the Senate and House.

Here West Virginia is ably represented by Senator Randolph who is the Chairman of that Committee in the Senate and who had a large personal part in special legislation to assist in making possible the restoration we see here today as well as measures to hopefully avoid future disasters such as occurred here with the old bridge. In the House, Congressman Jim Kee ably represents West Virginia and Congressmen Bill Harsha and Clarence Miller do the same for Ohio as they sit on the important Public Works Committee in that body. This is the Committee which handled on the House side the legislation which I have just mentioned in connection with the Senator. Likewise all of the other members of both State delegations in both the Senate and House have given full support to the measures.

In a moment of national tragedy such as was personally experienced by some of our citizens, we always ask why some were chosen by fate for sacrifice and those of us here today were spared. Certainly it is part of the responsibility of those of us who have been spared to inquire diligently as to how such misfortunes can be avoided for others in the future.

This we are trying to do. Nationwide examinations have been undertaken of all major bridges within the United States and new and hopefully better tools are being developed to give prior warnings of impending disaster. Involved are complex secrets of the physical sciences not yet completely understood and thus not readily detectable. But within your government, dedicated men and women are seeking the answers to these and many other problems to provide protection and benefits to our citizenry. When we build upon tragedy such as occurred here and find new solutions to increase safety for others, we then can perhaps find some small consolation that such a loss has not been in vain. It is really this effort which we dedicate here today.

GREAT MAN OF MEDICINE

Mr. DOLE. Mr. President, a singular honor was recently bestowed on a native Kansan, who after leaving his home State has established a record as one of the great men of medicine.

A renowned surgeon and distinguished professor, Dr. Brian Blades, chairman of the George Washington University Department of Surgery, was awarded the Airlie Foundation's Statesman of Medicine Award for his vast contribution to all aspects of the medical profession.

Mr. President, I ask unanimous consent that an article describing Dr. Blade's accomplishments, published in the fall 1969 George Washington University News, be printed in the RECORD.

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

GW SURGEON, EDUCATOR NAMED MEDICAL STATESMAN OF THE YEAR

"A great doctor, a great surgeon, a great educator and a great statesman" Dr. Brian Blades, Lewis Saltz Professor of Surgery and Chairman of GW's Department of Surgery, became the first recipient of the annual Statesman of Medicine Award at a dinner at Airlie House in Warrenton, Va., on Sept. 17. The award was created by the Airlie Foundation to honor a man who has significantly contributed, over the years, to the advancement of medical practice, research or education.

Dr. Blades received a bronze bust of himself, a formal citation and a check for $5,000. The awards were presented by Secretary of Defense Melvin R. Laird (who as a Congressman was the ranking Republican member of the House Appropriations Committee of HEW) and Mortimer Caplin (president of the Board of Directors of the Airlie Foundation, a GW trustee, and former Director of the Internal Revenue Service). Actor-conservationist Eddie Albert, master of ceremonies; Senator Edmund Muskie (D-Me.); GW President Lloyd H. Elliot; and Dr. Murdock Head, director of Airlie Center, were also on the program.

In the audience were leading political figures and many distinguished representatives of the medical profession.

Brian B. Blades began his medical career 40 years ago in Kansas, accompanying his doctor-father on horse and buggy rounds to patients living near Scottsville. After graduating from the University of Kansas, he began carrying his own black bag in medical school at Washingtn University, St. Louis, receiving his M.D. *cum laude*. He has made his name as a thoracic surgeon, and his career spans virtually the entire history of modern chest surgery.

"Not that there wasn't chest surgery before my day," Dr. Blades points out, "but it was more surgery of the chest wall, thoracoplasty for TB, and drainage procedures for emphysema, rather than intra-thoracic surgery."

Military service brought Dr. Blades to Washington in 1942. He was appointed chief of thoracic surgery at Walter Reed General Hospital and became responsible for establishing thoracic surgery units in military hospitals throughout the U.S. In 1946, he joined George Washington as chairman of the surgery department.

Under Dr. Blade's guidance, GW has developed a team approach to teaching surgery, which involves the student in total patient care rather than just the actual surgery. Students and interns follow the patient from the moment he enters the hospital, through preliminary work-ups, to the operation itself and his ultimate discharge. In this way, Dr. Blades believes that students learn to approach medicine as a problem in treating the

patient and not just a technical exercise in mastering their subject. How about the future of surgery? In this day of cardiac transplantation, hasn't surgery almost reached its limits? Dr. Blades was asked. "Well, you know," he said with a grin, "that's what they said about surgery in 1890. Of course it hasn't reached its limits. Surgery isn't just cutting, sawing, and stitching, you know. It involves many other aspects of medicine."

"I must say, however," he went on, "I hope I will see the day when I don't have to do cancer surgery. It's too often just palliative, not therapeutic. This is not to say that such surgery is not invaluable, even life-saving on occasion. But frankly, there super-radical operations for cancer have not paid off."

Among Dr. Blade's most treasured possessions is a collections of photographs and plaques that will soon line the walls in his new office in GW's new clinic. One of the laudatory phrases hailing his achievements in cardio-vascular and pulmonary surgery reads: "He has built a vertiable Blades School about him at George Washington." Talking with Brian Blades, one feels that, above all, it is this—the teaching of medicine—of which he is most proud.

THE GREAT DOLLAR ROBBERY—XEROX TELEVISION BROADCAST ON INFLATION

Mr. KENNEDY. Mr. President, as I have frequently stated in recent weeks, the single overriding economic issue of our day is the fight against inflation. Last Friday we had more bad news. We learned that the consumer price index rose by 0.5 percent for the month of November alone, thereby continuing the steady soaring rate of inflation we have had throughout 1969.

Indeed, the cumulative overall price increase for the 11 months of 1969 is 5.5 percent, the highest rate since 1951, during the Korean war. If the increase for the month of December is the same as in November, the rate of inflation for the year will be 6 percent, or the highest since 1947, the year in which the price and wage controls imposed during World War II were removed.

One of the few clear facts in the fight against inflation is that the people of the Nation are watching the administration on this issue. They are watching each of us in our efforts to bring inflation under control, to restore economic stability, and to maintain a proper sense of national priorities at home and abroad. Rarely in our history has there been such a serious challenge to our national well-being, a challenge fraught with enormous implications for the problems we must solve if we are to move forward on the great social issues that will face the Nation in the decade of the seventies.

The degree of public interest and concern over our handling of the fight against inflation was dramatically demonstrated last week. On Monday, December 15, the Xerox Corp. sponsored an hour-long nationwide television program on inflation. The program, called "The Great Dollar Robbery: Can We Arrest Inflation?" dealt comprehensively with the causes and effects of our current serious inflation, and discussed a number of the possible approaches that have been taken or that might be taken to curb it. I had the opportunity to watch the broadcast, and I found that it provided a fascinating and perceptive analysis of the complicated issues involved.

On the day of the broadcast, the Xerox Corp. also ran nationwide advertisements in the television section of many newspapers. The advertisement contained a form for viewers to use in sending their opinions on inflation to Members of the Senate. It asked the viewer to make up his own mind about what caused our inflation and what should be done to combat it, and it urged him to fill out the form and send it directly to the Senator from his State.

The outpouring of public response was immediate and strong. From Wednesday through Saturday last week, I received 372 forms from my constituents, and I am sure that the response is similar in the offices of every other Senator. Because of the importance of the issue, I would like to share with Senators the results of the replies I received. I therefore ask unanimous consent that the following two items be printed in the RECORD at the conclusion of my remarks.

First, a transcript of the television broadcast, "The Great Dollar Robbery: Can We Arrest Inflation?"

Second, the advertisement run by the Xerox Corp. announcing the program and containing the form to be mailed. I have tabulated the 372 replies I received. On the copy of the form I am submitting for the RECORD, I have indicated the percentage of replies that marked each box or line on the form. For comparison, I have also indicated the percentage of replies to the form in a nationwide poll conducted for the Xerox Corp. by the University of Michigan's Survey Research Center, the results of which were announced during the broadcast.

By far the most significant aspect of the replies I received is the overwhelming—indeed virtually unanimous opposition to the present level of Government spending on Vietnam:

Ninety-two percent of the people stated we have inflation because the Government is spending too much on Vietnam.

Ninety-two percent of the people said the Government should spend less on Vietnam in order to slow down inflation.

Ninety-four percent of the replies, when asked to comment on Government spending in 10 major areas, said the Government should spend less on Vietnam than it is now spending.

In several other areas, the replies are a valuable barometer of the future directions the people of Massachusetts feel the Nation should be taking. The replies are especially interesting when compared with the results of the national survey announced on the broadcast.

For example, the majority of the people in the national survey said that the Government should spend more than it is now spending on education, low-cost housing, and air pollution. The people of Massachusetts not only agreed with these priorities, but supported them by even more impressive majorities. In addition, unlike the majority of the national sample, a majority of the people of Massachusetts also favored greater Government spending on welfare payments to the poor.

In other areas of Government spending, the majority of the people of Massachusetts agreed with the national survey that the Government should spend less not only on Vietnam, but also on space exploration and foreign aid. Interestingly, the Massachusetts majority in favor of less spending on space exploration was even greater than the majority in the national survey, but the majority favoring less spending on foreign aid was significantly lower than the national majority.

In addition, a majority of the people of Massachusetts said that the Government should be spending less in two other basic areas—defense—other than Vietnam—and support agriculture.

Finally, with respect to the various categories of Government spending, the most consistent "other" recommendations—see item No. 11 in the form—were for additional Government spending in the areas of water pollution, health and medical research, crime control, and airport improvement.

Mr. President, I believe that the results of the analysis will be of interest to all of us seeking a solution to the problem of inflation. I and many others who are concerned with the need to improve the political process in America speak often of participatory democracy. The "Great Dollar Robbery" is a fine example of that concept in action, and I commend the Xerox Corp. for the valuable public service it has performed.

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

THE GREAT DOLLAR ROBBERY: CAN WE ARREST INFLATION?

Producer: Herbert Dorfman.

Reporter: Louis Rukeyser, ABC Economic Editor.

Director: Henwar Rodakiewicz.

Editor: Samuel Cohen.

INTRODUCTION

Living room in Arlington, Va.

HOUSEWIFE. The last six months, I think, just turned the coin over, and people are disgusted. They hate to spend every single penny in the grocery store all the time, every penny.

Housing development near Chicago

HOME BUYER. We have found that the prices of homes have been going up and up, and up, and they're getting to a point now where it's a little bit out of hand.

Arlington

ELDERLY WOMAN. On my social security check I would starve to death, and I couldn't live. I get $109 a month. For a woman with $109 a month to spend on . . . it's cheaper to die.

Supermarket shoppers

RUKEYSER (voice over).—What isn't cheaper is just about anything we buy. Every time the housewife heads for the store or the supermarket, inflation goes along. And what family doesn't know it?

Yet do we really realize how bad it's gotten in just five years?

RUKEYSER (on camera).—Good evening. I'm Louis Rukeyser. Tonight we're going to take a close look at the high cost of living. Most Americans call it their No. 1 domestic problem. They are angry and confused. We're going to see if we can find out *who* is responsible—and what *you* can do to help stop it.

Poll being taken in homes

RUKEYSER (voice over).—We're also going to give you a chance to find out how your views on inflation compare with those of your fellow citizens. To learn what America thinks about inflation, ABC News commissioned a nationwide poll. Later in the program, we're going to ask *you* the questions we asked the people in our poll—so you can match *your* answers with the overall results.

Some of the questions we asked and some of the answers:

What's going to happen to prices?

WOMAN.—Well, with all the measures they're undertaking, I should hope they'd stay where they are now. They'll probably go up.

RUKEYSER (voice over).—How much has inflation hurt *you?*

SECOND WOMAN.—Very much. I think everybody, really, to a certain extent, is hurt by inflation.

RUKEYSER (voice over).—Can you *save* anything these days?

MAN.—As far as savings are concerned, in my particular case we do not have a great deal of money in the bank and this again is related to the very simple . . . problem of inflation.

Animation sequence

RUKEYSER (voice over).—As the public anger indicates, just about everybody knows that a dollar won't do what a dollar used to do. But the full extent of the saga of the incredible shrinking dollar may come as a surprise.

Let's say you had been born 30 years ago today . . . and your father had celebrated the event by presenting you with a crisp new dollar bill.

RUKEYSER (voice over). If you had saved that dollar bill, it would now buy no more than 37 cents would have bought the day your daddy gave it to you.

But let's say you're sentimental, and you hold on to that old dollar for 25 more years. By then, if inflation goes on at its present rate, the buying power of that 1939 dollar will be exactly . . . one 1939 dime.

ANNOUNCER. Tonight, Xerox Corporation and its world-wide affiliates bring you "The Great Dollar Robbery"—a penetrating look at why your dollar is shrinking and what you can do about it.

THE GREAT DOLLAR ROBBERY

PART ONE

Supermarket meat counter

Women staging meat boycott with picket line

RUKEYSER (voice over). For many people, one victim of inflation has been their version of the American dream. Part of that is a good steak dinner, and that may be one of the reasons people are so sensitive to any increase in the price of meat. Some people—like these Northern Virginia housewives—have been angry enough to start picketing supermarkets.

Arlington, Va. women's group—living room

FIRST HOUSEWIFE. I think it's our responsibility to do something because everybody complains but it seems like nobody wants to do anything about it.

RUKEYSER (voice over). Is your boycott aimed at the supermarkets, do you think they're responsible for high meat prices?

SECOND HOUSEWIFE. We don't think they're responsible. Someone's responsible, and we can't get to whoever it is unless . . . who do we go to? We go to the stores. They're the ones that we buy from.

THIRD HOUSEWIFE. If they get a good buy on chickens or ham, we would never see a cut, they just keep that, but we get the benefit of any kind of increase anywhere along the line. If there's a drought, or if some truckers go on strike or anything in the world that happens, the prices go up, but never down.

Consumer items arranged in front of Rukeyser

RUKEYSER (on camera). The clues to the Great Dollar Robbery can be found on this table. These are some of the 400-odd items that go into the official Cost of Living index, the government's market basket. They range from busfare to bananas . . . and when the Department of Labor takes the average of what they all cost around the country, it can tell us in detail what we all already sense—namely, how much more it now costs to live in America. In the last 12 months, that average has gone up about 6 per cent . . . which means that last year's dollar is already worth only 94 cents.

Holds up automobile; holds up loaf of bread

But life is unfair and unequal—and so is inflation. Some things charge ahead in price much faster than others. Some purchases can be deferred . . . some can't. Tonight we're going to look first at three areas whose cost concerns nearly all of us—meat, hospitals and housing. We're going to see if we can find out why these items put such a dent in the family budget . . . and, more important, what you can do about it.

Rukeyser with cattle feeder, near Rochelle, Ill.

RUKEYSER. Do you think that beef prices are too high?

CATTLE FEEDER GLENDENNING. No, I don't.

Scenes of cattle feeding farm.

RUKEYSER (voice over). George Glendenning is one of the biggest independent cattle feeders in the Middle West. He thinks beef prices are not too high. Most housewives would disagree. In one seven-month period this year, the increase in meat prices was nearly as great as in the previous ten years.

RUKEYSER. How do you feel when housewives and other consumers get angry about high meat prices?

GLENDENNING. Well, I don't know, but I don't think that they should get angry at the feeder because our profit is very small.

RUKEYSER. Do you think the supermarkets take too big a markup?

GLENDENNING. I do.

Cattle feeding

Feeder with buyer for meat packer

RUKEYSER (voice over). Cattle feeders like Glendenning buy six-month-old animals from Western ranchers, and then fatten the cattle for another six or eight months. When the animals are ready for slaughter, the feeder may decide to sell to any of a number of meat packers—or he may decide to wait a few days to see if the price improves. He ordinarily nets about 20 to 30 dollars a head. Last spring many feeders withheld their cattle from the market—hoping that this artificial shortage would lead to higher prices. For awhile, they got them—at your expense.

Cattle unloaded at meat packing plant

The price to packers shot up . . . though it eased off later when the cattle got too fat, and had to be moved.

So we see that the price the packers have to pay for live cattle can vary from day to day. But it runs about 30 cents a pound.

Carcasses hanging in meat plant

RUKEYSER (voice over). How much is added by the middlemen who slaughter the animals and sell the carcasses to your supermarket? I asked Roy Greene of Swift & Company.

GREENE. About five years ago, or exactly five years ago in October, the dressed price—the wholesale price—was at 40 cents. Today the market is about 44 cents.

RUKEYSER. We're talking about a pound, are we?

GREENE. Forty-four cents per pound, and that is only an increase of ten per cent.

Carcasses pushed along overhead track, out of meat plant into meat department of supermarket.

RUKEYSER (voice over). So the meat that cost the packers about 30 cents now leaves their plant costing about 44 cents. To find out what happens then, we talked to a New Jersey supermarket with Ernest Berthold, general manager of meat operations for the Grand Union chain of supermarkets.

RUKEYSER (SOF). This sirloin steak left the Middle West meat packer costing about 44 cents a pound. You're selling it now for $1.69 a pound. How did it get way up there?

BERTHOLD. It cost about 2 cents a pound to bring that from the Midwest to our East Coast warehouse. It costs us another 2 cents a pound to deliver it to our stores. That 44 cent carcass now costs 48¢

And depending on how much fat and bone we remove—let's assume that we remove 40 per cent, we get a yield of 60 per cent of the carcass. So that 48¢ carcass of beef now costs us 80¢ in the show case, in the various cuts that we have. Some of these cuts sell for considerably less than 80¢ a pound—which follows then that some must sell for more.

RUKEYSER. And you take your profit then on the average of all of them—or the total?

BERTHOLD. Yes, we do.

RUKEYSER. And that profit would come to about what?

BERTHOLD. Well, that profit comes to something less than 1 per cent after taxes.

Supermarket scenes

RUKEYSER (voice over). So every link on the chain of meat suppliers can make a case that its cost have risen, and that it should not be accused of profiteering at your expense. But is there any solution for people who don't want to become vegetarians? We asked two eminent economists whether supermarket boycotts did any good. Professor John Kenneth Galbraith, a noted liberal, was skeptical.

GALBRAITH. I would think that a stronger procedure would be a boycott of any Congressman or any Senator who seems not to have taken a requisite interest in this. The problem is one that has to be handled in Washington and the people to be held responsible are one's legislative representatives there.

RUKEYSER (voice over). And Professor Milton Friedman, a leading conservative, also thought the women's energies were misspent.

FRIEDMAN. It may relieve some of their tensions. It may have a temporary effect in causing them for a week or two to have a lower price level, but the overall net effect is zero.

RUKEYSER (on camera). The real problem with meat prices is that we affluent Americans have been demanding twice as much beef apiece as we were eating 30 years ago. Plainly, we need a much bigger supply. Meanwhile, there is something you can do right now to bring down your family's meat bill. You can make a practice of eating less expensive cuts. They remain a relative bargain . . . while the prices of more fashionable cuts such as sirloin and filet mignon go higher and higher.

There's an easy answer here—because you have a choice. But you usually have no such discretion when it comes to hospital costs—the second question to which we tried to find the answer.

Hospital exterior; Hospital interiors

RUKEYSER (voice over). There is no more dramatic example of inflation than the cost of care in the nation's hospitals. The average cost is approaching a hundred dollars a day—and the end is by no means in sight. Nor is the main reason hard to find . . .

Nurses in class; Laboratory workers; Laundry workers; Kitchen employees; and Dr. Knowles at inflation hearings of Joint Economic Committee

About two thirds of a hospital's cost go for labor. Whether they were nurses or kitchen employees, these workers used to be encouraged to think of themselves as dedicated angels of mercy—and angels don't worry about money. Hospital employees were among the most underpaid workers in the country. Now they're catching up. However overdue, this catching up has sent costs skyrocketing . . . as was explained at a congressional hearing by Dr. John H. Knowles, director of the Massachusetts General Hospital in Boston.

KNOWLES. For each 5 cents that we move our minimum wage, it costs us $475,000—it costs us what we charge the public—an additional $475,000.

Accounting department

RUKEYSER. (voice over). One of the reasons that hospitals were able to boost their wage rates was that so many of their bills—about 9 out of 10—are now paid by well-financed third parties like Medicare and Blue Cross. Critics contend that these third parties are not tough enough in scrutinizing hospital bills. What seems certain is that the red tape they require does add significantly to the final cost.

Computerized hospital bill

Dr. Knowles demonstrated the impact of such red tape on just one patient's bill . . .

KNOWLES. This patient came to our hospital in March. Let me read you some of the items here, then we'll stretch it out. There's more than eight feet. Medication $1; medication $2; day nurse $35; clinical labs $1; or let me get some, er, choice ones here, anesthesia $90; clinical laboratories $1. Piece work you wouldn't believe. Everything that's happened to that patient has to be put on a card, punched, carried and put into a computer, and this is what we've got on this man so far. Maybe we can stretch it out. I don't know how we can do this. Can you take one end of it . . . hope it holds together.

Stretches out patient's hospital bill across length of hearing room

This is just one patient, bear in mind, and when you have 365 patient-days, this is one patient who's been in our hospital since March.

Ward scenes

RUKEYSER. (voice over). Not just red tape, but the demand for hospital facilities has been sharply increased by Medicare, Medicaid and the private insurance plans. This rising demand has paralleled the rising hospital wage rates.

Kitchen—food moving on assembly belt Cathode machine

But hospitals are also victims of the general inflation hitting the country. At one suburban hospital we visited, food costs alone have gone up by $10,000 a month in the last year. Inflation means hospitals must pay more for everything they buy—from the food they put on the patient's plate to expensive new diagnostic machines. In Chicago, we talked with the comptroller of Wesley Memorial Hospital, Harold Staidl:

STAIDL. An X-ray radiographical unit in 1948 cost $9,400. Today it costs $32,000. A urological table in 1948 cost $515. Today the same table costs $5,500. A hospital bed in 1948 cost $47.25. Today a bed is $600. Now I'll grant you that many changes have been made in some of this equipment causing the increase in cost, but most of it is due to inflation.

Hospital room with bed

RUKEYSER (voice over). Inflation. Well, there's plainly no way to solve *that* part of the hospital-cost problem without solving the national problem of inflation.

RUKEYSER (on camera). So let's sum up what you can do about hospital costs. You can't protest against the fact that hospital workers—so underpaid for so long—have finally stopped subsidizing the patient. But you can urge your Congressman to see that Government medical programs are administered with less red tape and more concern for final costs. And you can demand the same streamlining from any private insurance plan to which you belong. After all, it's you who pays the taxes—and the premiums.

Perhaps, most important of all, you can let your representatives in Washington know that you insist on their taking the basic steps that will stop inflation. We'll have more on how you can do that later in the program.

Headlines emphasizing rising interest rates

RUKEYSER (voice over). One of the by-products of that inflation has been record-high interest rates—part of a policy deliberately designed to discourage spending. It's a policy that is particularly hard on anyone whose version of the American dream includes the purchase of a home.

Persons interviewed at housing development near Chicago

RUKEYSER. You figure it's gonna keep going up every year?

FIRST MAN. Yes, it has, and I see no reason why it won't. And that's one of the things we're counting on, if we own a home, is the price going up further for us.

RUKEYSER. So you figured you better buy now.

FIRST WOMAN. Before they go up any higher.

RUKEYSER. In the two years since you last bought a house, have you noticed the prices have gone way up?

SECOND WOMAN. I have noticed that they seem to be completely outrageous for what you're getting.

RUKEYSER. In the year you've been looking have you noticed a change?

SECOND MAN. Yes we have. We looked at one home and we hesitated about buying it for one reason or another, and when we did decide that we would like to have the home, the price had gone up a thousand dollars practically overnight.

Scenes of new homes and homes under construction

RUKEYSER (voice over). The young house-hunters are certainly right that house prices have been soaring—about twice as fast, in fact, as most other prices. And with interest rates so high, there's pressure on you from the other end . . . you can't get as much mortgage money from the bank.

Construction workers

Just about everything that goes into a house has increased significantly in price. But perhaps the most dramatic increase has been in the cost of labor. Construction was already an unusually high-paying industry. I asked Jack Hoffman, a major home-builder in the Middle West, why builders had permitted these huge wage increases . . .

HOFFMAN. The building industry happens to be one of the largest and most fragmented industries in the country. There are approximately 50,000 homebuilding organizations around the country. We of course have weak members and we have strong members, and those who are weakest must negotiate before the others are ready to negotiate, and with the negotiations accomplished by several of the builders with the unions, they then use this as leverage with the other builders.

RUKEYSER. Are the unions stronger than the builders are?

HOFFMAN. Certainly. This is what gives them the leverage to be able to develop negotiations far in excess of other industries.

Houses under construction

RUKEYSER (voice over). Tight money and high costs add up to a desperate shortage of homes. Fewer new homes were started in the first half of this year than in any similar period, except one, since World War II.

RUKEYSER (on camera). So what can you do about the high cost of housing? Well, first you can recognize that three of the problems we've just seen have a good deal in common. The househunters have speeded up their buying plans because they fear more inflation. The building unions have increased their wage demands because they fear more inflation. And the government has kept interest rates high to discourage excessive borrowing by people who fear more inflation. Clearly, some of us who fear inflation have been doing more than our share to help it along. We could, at least, stop doing that.

But as with meat prices and hospital costs, housing has some special problems and one basic one. The basic one is called inflation. How in the world did this country let itself get in such a mess? Let's see if we can't find out.

Animation sequence

RUKEYSER (voice over). People have gotten so used to the idea that a dollar buys less and less from one generation to the next that many have come to think of runaway inflation as a basic—and inevitable—fact of modern American life. But it just isn't so. From 1958 to 1965, for example, the U.S. had a period of remarkable price stability—with overall increases averaging just a little more than 1 per cent a year. The nation was growing a lot faster than its prices were. Plainly, then, something must have happened in 1965—and something did. The something was Vietnam.

When a nation is as rich as the United States is, it can afford to do almost anything. But it can't do everything, all at once, without paying for it. And that's exactly what the U.S. tried to do as the war in Vietnam took an ever-bigger part of the nation's wealth.

Let's see just how that works. Even in our credit-card economy, there are limits on the ordinary family. If it's already spending every penny that Papa makes . . . and if Mama then goes out and buys a diamond ring and a mink coat . . . that family is in deep trouble. So is the government when, with the economy booming along and unemployment very low, it runs up bills that it can't afford to pay.

The politicians, of course, have an advantage over the rest of us. For when the Government spends more than it takes in, it can, in effect, print more money to pay its bills. The only trouble is, that that makes everybody else's money worth a little less. For when there's more money around, and the same amount of goods, prices go up. It's the old law of supply and demand . . . one law that no politician has ever been able to repeal.

The trouble started when the Johnson Administration tried to have both a major buildup in Vietnam and a major social-welfare program at home . . . without raising taxes to pay for this double-barreled effort.

In the winter of 1965–66, President Johnson made what turned out to be a pretty bad guess. He estimated that the war would cost, in the year beginning the following July, about $10 billion. And he figured that there would be no need to raise taxes to pay for it.

In the end, that $10 billion estimate in the budget was about $10 billion under the real cost of the war for the year. And in the months after the budget was submitted, as it became clearer that the price tag for Vietnam would go up, the President's Council of Economic Advisers recommended a tax

increase. But the President reckoned that Congress would never support a tax increase, so he decided to lay off the subject himself. The result was that the Government spent, in that year ending in June of 1967, no less than $9 billion more than it took in. And inflation was off and running.

By August of 1967, the Administration had realized that if it tried to have guns and butter for the same taxes it levied for butter alone, the housewife was going to have to pay a lot more for her groceries. So it finally requested that tax increase.

Now came Congress' turn to dilly-dally. After all, the legislators seemed to reason, people always love spending, but they never love taxes . . . so let's go right on spending and forget about the taxes. By the time the Congressmen got around to enacting the 10 per cent surtax nearly a year later, in 1968, the deficit in the Federal Budget had grown to a whopping $25 billion . . . and inflation was built into the American economy for a long time to come.

RUKEYSER (on camera). OK. We know how inflation got started—and we even have a few ideas of what you can do to help stop it. But there's plenty more coming in that department. We next turned to some of the people whose actions may well affect the prices you'll have to pay in 1970.

THE GREAT DOLLAR ROBBERY

PART TWO

Animation sequence

RUKEYSER (voice over). If we think of the inflation that's now driving through America as a train, it's clear that the thing that got the train under way was the decision in Washington—first by the White House, then by Congress—that it would be easier *not* to ask the people to pay for what the Government wanted to spend . . . and not to cut the spending itself.

But if the Government started the inflation train down the tracks, other Americans have been helping it gather steam. When prices started rising, many unions started negotiating larger long-range wage increases in the hope of keeping ahead of inflation. Many companies agreed (far too readily) to these contracts, figuring they could pass the increases along to consumers . . . in higher prices. And thus millions of Americans set out to fool themselves . . . assuring that even when the Government tried to put on the brakes, as it has this year, the inflation train would keep on rolling along.

Construction workers

When it comes to labor's responsibility for keeping that inflation train going, a favorite target as we have seen is the construction industry—where wages have been bounding ahead at a record annual rate of 20 per cent.

Exterior, AFL–CIO Building, Washington, D.C.

The head man for America's 3½ million union construction workers is C. J. Haggerty, president of the AFL–CIO Building and Construction Trades Department. I asked him to comment on the kind of settlements those workers have been getting this year . . .

RUKEYSER. Arizona plumbers—these are all three-year contracts—increased from $6.51 per hour to $9.76 per hour, total wage package. Connecticut iron workers up from $6.62 per hour to $10.68 per hour. Southern California plumbers, up from $8.10 per hour to $11.61 per hour. New York City riggers up from $6.40 to $10.15. Now how can you justify this kind of huge wage increase at a time when we're trying to stop inflation?

HAGGERTY. Now let me say that there are some instances where some of us feel that maybe the adjustment could have been a little less and a little more reasonable for the journeymen in the negotiations. But that's something that the hierarchy of labor could do nothing about.

RUKEYER. Well, can I gather from what you've said, that it's very own view as a private citizen that some of these contracts have been excessive?

HAGGERTY. Yes, I would agree with it that some of them—I wouldn't name them and couldn't name them right offhand now—but I would say that in some instances they have been excessive, but they're very few and far between. The general run I think are pretty solid, pretty sound and justifiable.

RUKEYSER. Your public statements have been in defense of the wage settlements.

HAGGERTY. Certainly they are . . .

RUKEYSER. If you were able to defend them, wouldn't you be able to criticize them. . . .

HAGGERTY. Well, I'm just telling you now that I admit that there are—I don't say which ones, I don't know offhand without going into it—I'm telling you now that I admit that there are some unions that probably have made excessive demands, and obtained . . . their . . .

RUKEYSER. Have you made known your feelings to these unions?

HAGGERTY. Oh, yes, yes.

RUKEYSER. How have they responded?

HAGGERTY. Well, they didn't like it.

RUKEYSER. Did they indicate they'd be better boys next time?

HAGGERTY. No.

RUKEYSER. Isn't one of the problems that a union leader knows that if he were less militant that he'd soon be replaced by another union leader?

HAGGERTY (pause). No comment.

Exterior, U.S. Chamber of Commerce building, Washington, D.C.

RUKEYSER (voice over). Plainly, not much hope there that the hierarchy of labor is about to take any strong measures to hold down wages. But how about the other side of the coin? How much is business itself to blame? We turned to a leading spokesman for American industry—Jenkin Lloyd Jones, president of the U.S. Chamber of Commerce . . .

RUKEYSER. Mr. Jones, you businessmen have been quick to call labor to task for its role in keeping inflation going, but hasn't big business been far too quick to grant these pay increases and then just pass them on to the rest of us in the form of high prices?

JONES. Yes, but, business is limited in what it can get away with in higher prices depending on how much the consumer will pay.

RUKEYSER. Several big companies have raised their prices this year well in excess of what they've had to pay for wage increases. How can that be justified?

JONES. I would say that would be inflationary.

RUKEYSER. Do you say this to the companies involved?

JONES. Well, I don't know if we've gotten on the telephone and called them up and told them to roll their prices back, but what we have tried to do is to educate the business community in our responsibility as well as the responsibility of other segments of the economy in getting this thing under control.

RUKEYSER. How successful would you say that education has been?

JONES. Well, we've tried pretty hard at it.

RUKEYSER. One of the important ways in which business contributes to inflation is by spending too much too fast on new plants and equipment. Because they are afraid that prices are going to go higher, they spend so much now that they make sure that prices do go higher next year. Now couldn't more be done to get this capital spending under control?

JONES. I do think that a good deal of business construction right now particularly when there is such a tremendous shortage of construction labor could afford to be deferred. I think the fact that we are in a jam is because we are too much the now generation. We wanted it now. Well you can't have it all now. You've got to stretch it out, and this is what we've been trying to tell our business members and I think the moment that they can become convinced that they will get as good or better a plant next year at perhaps a lower interest rate they will cease to be of the now generation.

RUKEYSER. But until then they will be card carrying members of the now generation.

JONES. I think this is human nature.

Exterior, Labor Department, Washington, D.C.

RUKEYSER (voice over). Well, when business and labor can't agree, the Government often has to play a role. William J. Usery, Jr. is Assistant Secretary for Labor-Management Relations. As such, he presided over one settlement—for airline workers—that the New York Times called "one of the juiciest of 1969 contracts." . . .

You speak of workers anxious to catch up. But most of the country consists of people who don't have the same weapons to catch up—as you put it—as these very strong unions we've mentioned. When these very strong unions have very high wage settlements of the type we've seen this year, doesn't that add to the rise in prices for everyone in America?

USERY. It would certainly cause a rise . . . some, but usually when wages go up for a certain number of people automatically it'll bring wages up for some of the other people.

RUKEYSER. But not for the old people on fixed incomes, not for other people who aren't members of as strong unions as the construction workers and airline workers.

USERY. I will agree with you that I think it's most unfortunate for those on a fixed income.

Woman in Arlington, Va., group

WOMAN. This old lady that called us, she lives on a very small pension. She called and said, "Is there anything you can do about rent? My rent has gone up $25 a month. I live on a very small pension. Now this $25 is my grocery money. If I complain they'll put me out. Where will I go?" I think old people are frightened.

Retired persons hotel in Chicago

ELDERLY MAN. Well, I don't think anybody wants to anticipate going on welfare, if they can possibly avoid it.

ELDERLY WOMAN. That I don't want to . . . that I don't want to.

ELDERLY MAN. That's the continual worry. The humiliation of doing such a thing is something that you have to think about.

ELDERLY WOMAN. You have to think twice some times before you buy. And what hurts me is that I can't give the presents, I can't spend the money on others as freely as I used to do.

Because I . . . sometimes I lie awake at night and think, well you shouldn't have done that. You have to hold back.

Faces of elderly people at Chelsea House, Chicago

RUKEYSER (voice over). Fear is not an uncommon reaction for those who are helpless against the ravages of inflation. With labor and management passing the buck back and forth, and with the government apparently either unwilling or unable to make them behave, polls indicate growing public dissatisfaction with the Nixon administration approach.

Exterior, White House, gradually zooming in to medium shot

As Harry Truman used to say when he was in the White House, the buck stops here. President Nixon has made personal appeals

to both business and labor to show more self-control. But his Administration has deliberately avoided any direct controls or exact guidelines on either wages or prices.

Portrait of President Nixon, panning down to Mr. McCracken

Mr. Nixon's top economist is Paul W. McCracken, chairman of the President's Council of Economic Advisers.

RUKEYSER. Mr. McCracken, if you won't flash the red light of controls and you don't want the amber light of caution, of guidelines, aren't you in effect flashing a green light, telling people to go out and get whatever they can?

MCCRACKEN. No, definitely not.

RUKEYSER. What is the government doing to restrain wages and prices?

MCCRACKEN. Government is doing the most important thing for government to be doing, and something which was not done for about three years, and which landed us in this problem. And that is that it has pursued a strong budget policy, it has pursued policies of monetary and credit restraint, and these are already beginning to build the back pressures.

RUKEYSER. Well, isn't there some ground for concern, that while you're busy dealing with basic causes, these effects keep rolling along?

MCCRACKEN. Well I think yes, there is. I would want to say this: That now that we are seeing some clear evidence that the economy is cooling, it is more and more important for businesses and for unions to start to think how or what their price and wage actions will do in an environment which is going to be less expansionist and less inflationary. As the President himself indicated, those who bet on inflation are going to get burned.

RUKEYSER. Isn't there a danger that we may soon have the worst of both worlds? In other words, a recession in which prices keep on rising?

MCCRACKEN. It's very important that we see this matter clearly and realistically. When you start in to try to cool off a long overheated economic situation such as we've had, we have to be prepared for an interlude where all of the wrong things seem to be happening. We musn't lose our cool if that's what we see.

RUKEYSER. It may be easier not to lose your cool if you're not losing your job. It's tougher on those who are thrown out of work by this kind of situation.

MCCRACKEN. No question about this.

RUKEYSER. How much unemployment is too much?

MCCRACKEN. Well I wouldn't want to . . . How much is too much?

RUKEYSER. When you're trying to stop inflation?

MCCRACKEN. Any employment is too much.

RUKEYSER. Wouldn't it be fair to say, though, as you look ahead to 1970, that this mix you've discussed, these policies you've enunciated, are going to mean a few more people out of work?

MCCRACKEN. If I were to say the whole thrust of policy has to be directed toward avoiding any risk here, then I would also be saying quite probably we will have a rise in the price level in 1970 fifty per cent greater than this year, and you don't want that either.

RUKEYSER (voice over). So it would appear that there is going to be at least some additional unemployment in 1970—as part of what the Administration sees as the necessary price of beating inflation. Well, what do the economists think?

Harvard campus

Galbraith office

In his office at Harvard University, Professor Galbraith told us that Mr. Nixon was dead wrong, that more unemployment was not necessary, and that if things went on unchanged, inflation was bound to get worse.

Vermont scenery and Friedman home

Inside, Mr. Friedman and Rukeyser

Professor Friedman, whom we interviewed at his home deep in the woods of Vermont, disagreed emphatically. Mr. Friedman thinks the only way inflation could get worse would be if the Federal Reserve Board increased the total supply of money too fast—and he doesn't think that's going to happen. The economists were particularly far apart when I asked them: should the government impose controls on wages and prices?

FRIEDMAN. The government neither should nor can. The government can pass a law, that's one thing, but history in this country and every other country, has shown that such laws, fixing maximum wages and maximum prices, are honored far more in the breach than in the observance. They have also shown, that such laws do an enormous amount of harm. They attack the symptoms of inflation, not the cause of inflation.

GALBRAITH. Well, we have to abandon some of the established economic theology and face the fact that one of the causes of inflation . . . is the direct pressure of wages on prices. And one must come directly to grips with that part of the economy where wages act on prices and prices act on wages. It's not all of the economy, only a part of it.

RUKEYSER. Would selective controls over just part of the economy really be workable?

GALBRAITH. Oh sure. No question about it.

FRIEDMAN. I would ask him whether he would think, that if you have a balloon that is blown up, whether by pressing one corner of that balloon, you really deflate the balloon. I think the same thing is true about the economy. If you hold artificially down prices in one sector of the economy the only effect of that is to shift the pressure somewhere else and make price rises somewhere else higher.

RUKEYSER. Should government restore the old guide lines for wages and prices in an effort to use moral suasion to hold them down?

FRIEDMAN. I think the old guide lines were a complete failure. I think restoring them would be an equal failure. I think that what happens when you do that kind of thing is solely to spread misinformation among the public.

GALBRAITH. When they came in last autumn, the Nixon people said: We're not going to have anything more to do with this. This was, in effect, a license to go out for the biggest possible wage increases and to compensate for them with price increases. So, it's perfectly possible that the Nixon Administration, so far, has done more to cause inflation than it has to prevent it.

RUKEYSER. By giving a green light on wages and prices.

GALBRAITH. In effect, giving the green light on wages and prices, yes.

FRIEDMAN. It's not realized what the real function of guidelines is. The real function of guide lines is to shift the buck from where it belongs. Government produces inflation, nobody but government can produce inflation. But, of course, government officials don't like to admit that they produce inflation. They like to shift the blame to somebody else. So the government official says it's the greedy trade union man, it's the grasping business man who's raising prices—don't blame me, I had nothing to do with it.

Exterior, Capitol Hill

RUKEYSER. While they differed on most things, Professors Friedman and Galbraith agreed that the best way you can have an impact on inflation is by your impact on your representatives in Washington.

Outside Congressman Hale Boggs' Office

Hale Boggs is majority whip of the House of Representatives and a long time member of the group responsible for tax legislation: the House Ways and Means Committee.

RUKEYSER. Mr. Boggs, to what extent does public opinion influence the tax and budget legislation that comes out of Congress?

BOGGS. Well I think a great deal. It was public opinion that finally passed the surtax last year. There was a unanimity among the economists, the business community that that bill had to be passed. But until that was developed, there was very little pressure in Congress to pass that legislation.

RUKEYSER. Would the surtax have been enacted earlier if public opinion had demanded it?

BOGGS. I think so. It's always been my feeling that we waited too long to pass the surtax.

RUKEYSER. Would this have helped to curb inflation?

BOGGS. Yes, I think it would have.

RUKEYSER. Do most Congressmen vote on these matters the way they think their constituents would want them to?

BOGGS. Yes, I think so. That's why it's difficult to get a consensus on a tax bill. It's never popular to pass a tax bill, particularly one that affects every taxpayer in the country, such as the surtax does.

RUKEYSER (on camera). As Mr. Boggs suggests, Congress sometimes waits for the people to lead. When that lead is strong though, wise politicians put aside the comforting notion, first voiced by a New York banker three generations ago, that America is a nation of economic illiterates. Only you can prove that notion wrong—by making your voice heard in Washington. More on that later.

But first, let's find out how much we Americans have learned in three generations. In a moment, we're going to give you a chance to compare your personal views on inflation with those held by the people as a whole . . . as revealed in our ABC News Poll.

PART THREE

Poll interviewer approaching and entering home of respondent

RUKEYSER. (voice over). Politicans and experts aside, what do the people think about inflation, and what would they like to see done? To find out, we commissioned the Survey Research Center of the University of Michigan to make a nation-wide poll. Like all the Center's polls, this one was private and anonymous. However, to help us convey some of the intense concern people have about inflation, they agreed to let us accompany a few of their interviewers with the consent of the people being polled.

INTERVIEWER. What kind of people would you say are hurt most by inflation?

FIRST WOMAN. Retired people. People with fixed income.

FIRST MAN. The responsibile citizen. The individual that gets up in the morning . . .

INTERVIEWER. You mean the breadwinner?

FIRST MAN. Yes. Yes. The taxpayer. The honest man. The honest individual.

INTERVIEWER. Do you agree or disagree that consumers borrow too much, is a reason for our having inflation?

SECOND MAN. Yes, I agree. I think credit in the form of these rotating credit plans is much too easily available.

SECOND WOMAN. I think they borrow because of inflation. They have to borrow to get what they want. I have to borrow, I know, to get the things that I have.

INTERVIEWER. The government should control prices . . .

THIRD WOMAN. I used to think that but then I read all the arguments against it and I can see where it would be a very, very difficult thing and it inevitably leads to black market and they say it's a terrible mess so I don't think they should.

RUKEYSER (on camera). That's the way some people responded to the questions in our inflation poll. Now let's see what nation-

wide opinion is about inflation—and what should be done about it. At the same time, we invite you at home to take part in the poll and test your own attitudes against those of your fellow Americans. We'll show you the questions that were asked—one by one—and before revealing what the nation thinks, we'll give you a moment to register your own reaction.

RUKEYSER (voice over). All right now, first—Do you think the prices of the things you buy will go up next year, go down or stay where they are now?

Results pop on, showing: Go up, 76%; Go down, 1%; Stay the same, 15%

Well, three out of four Americans thought prices would go up. Interestingly enough, though, when they were pressed as to how big an increase they expected, most people predicted between 1 and 5 per cent—which would be a slower rise than we've had in 1969.

Now we come to a list of reasons different people have mentioned for our having inflation. Taking them one by one, do you agree or disagree that we have inflation because of the following: First, business firms raised prices too much.

Business: agree, 65%; disagree 26%

What do you say? Nearly two out of three Americans think this is a reason for having inflation. Incidentally, in each case we have not bothered to list the percentage who said they don't know.

Now this possibility—Labor unions demanded and obtained too large wage increases.

Labor: agree 65%; disagree, 24%

Well, most Americans blame labor as well as business.

The Government spent much on Vietnam. Was this a cause of inflation?

Vietnam: agree, 68%; disagree, 21%

An even higher percentage said this was a cause of inflation.

Now your reaction to these other possible causes: the Government spent too much on other things.

Other Gov't spending: agree, 69%; disagree, 19%

Yes indeed, say the American people. The Government did not tax enough.

Taxes too low: agree 9%; disagree, 85%

Here we had our first *no*—and an overwhelming one.

Now how about this one:

Consumers *spent* too much.

Consumer spending: agree, 58%; disagree, 31%

If you *agree*, most Americans think as you do.

Consumers *borrowed* too much.

Consumer borrowing: agree, 70%; disagree, 17%

More Americans pinpointed *this* as a cause of inflation than any other. Finally, what about the possibility that inflation is inevitable, that nobody is responsible for it?

Inflation is inevitable: agree, 12%; disagree, 63%

Most people agreed. But even after hearing all these other possibilities, one out of eight of those polled still said that inflation was just inevitable. Now as we've seen tonight, some people may be hurt by inflation much more than other people. What kind of people would you say are hurt *most* by rising prices?

The poor, old, the average man

We naturally got a lot of different answers to this one, but among the most common were poor people, old people and others on fixed incomes, and the average man.

Now, who do you think gets hurt *least?*

The well-to-do

Here we had an overwhelming first choice. About seven out of ten of those polled thought well-to-do people could best escape the impact of inflation. Now let's get personal. How much would you say that you and your family were hurt by inflation?

Very much, 14%; much, 13%; a little, 55%; not at all, 13%

Most Americans said inflation has hurt them "a little"—though more than a quarter answered "much" or "very much." That percentage was significantly higher among *low*-income groups.

Now comes the question: What should we do to slow down inflation? Let's take these one by one. First, do you agree or disagree that income taxes should be raised?

Raise taxes: agree, 9%; disagree, 85%

As you can see, higher taxes had mighty little support. Now these other possibilities: Interest rates should be raised.

Raise interest rates: agree, 11%; disagree, 81%

Well, that idea is nearly as unpopular as higher taxes. The Government should spend less.

Cut Government spending: agree, 81%; disagree, 11%

Here the percentage reverses. This was the solution recommended most. Consumers should spend less.

Cut own spending: agree, 67%; disagree, 24%

Two out of three agree. Consumers should borrow less.

Borrow less: agree, 80%; disagree, 11%

A surprisingly high proportion—four out of five—agree that this would help slow inflation. Now that controversial question of *direct controls*. First, the Government should control prices.

Control prices: agree, 45%; disagree, 45%

This was the closest result in the entire poll—a dead heat. Again, the percentage not listed said they just couldn't say. The Government should control wages.

Control wages: agree, 35%; disagree, 54%

Well, much fewer people liked that idea than the idea of controlling prices. And finally, how about the possibility that inflation is inevitable, nothing can be done to slow it down.

Nothing can be done: agree, 9%; disagree, 68%

After hearing all these possible solutions, more than one in ten still felt that nothing can be done.

We've been talking about the nation as a whole. Let's talk again about you. Would you say that someone like you can do anything to protect his family against price increases? And if so, what?

Buy less: Yes, 27%; possibly, 10%; no, 56%

Most people said there was nothing they could do. Of those who disagreed, the most popular suggestion was to buy less—to postpone some purchases. Now, thinking of your savings, do you see any way to protect them against inflation. And if so, how?

Buy stocks: Yes, 15%; possibly, 3%; no, 72%

An overwhelming majority thought there was nothing they could do to protect their savings. Among the others, buying stocks was mentioned most frequently—though the stock markets, in fact, have declined during the present inflation. Now for our final set of questions. We're going to show you ten areas of government spending. One by one, on which do you think Government should spend *more* than now, on which *less*, and on which *about the same?*

First, Vietnam.

Vietnam: More, 7%; less, 73%; same, 20%

Fully 73 per cent thought the time had come to spend less on Vietnam.

Now—other defense.

Other defense: More, 13%; less, 40%; same, 47%

The greatest number were satisfied with the present level here, though two out of five wanted a cut.

Space exploration.

Space: More, 8%; less, 60%; same, 32%

Now that we have reached the moon, most Americans want a cut back in space spending.

Foreign aid.

Foreign aid: More, 3%; less, 76%; same, 21%

This relatively small program is still a favorite/target of public resentment.

Welfare payments to the poor.

Welfare: More, 36%; less, 33%; same, 31%

Here we had a very even division—but the biggest group would favor increased spending on welfare.

Now these other areas of government spending:

Education.

Education: More, 61%; less, 10%; same, 29%

Most Americans in our cross-section thought the Government should spend more on education.

Support for agriculture.

Farm supports: more, 31%; less, 34%; same, 35%

Here we had a predictable division among Americans—with no overriding sentiment either way. Low cost housing.

Housing: more, 52%; less, 18%; same, 30%

Most people want more spent on this. Highway construction.

Highways: more, 36%; less, 17%; same, 47%

The largest group thinks the present level of highway spending is about right. And finally, air pollution.

Pollution: more, 64%; less, 13%; same 23%

This got the strongest support for more spending of any item in the poll. Incidentally, 6 per cent of those polled thought there was no program on which the Government should spend more.

RUKEYSER (on camera). Well, how typical an American did you turn out to be? If you were typical, according to the poll results, you've been hurt by inflation but not yet floored by it. And you've apparently been convinced that the Government is right when it says that inflation will slow down next year—even though you don't think it's going to stop. But the typical American revealed in our poll still seems confused and frustrated. He believes there's nothing he can do to protect his family or his savings against inflation. What is reflected here, perhaps, is the conviction that the ordinary good citizen is helpless—that with inflation, the good guys finish last. The businessman or worker who has shown restraint has been outpaced by those who haven't.

And in these results, we can sense one of the cruelest tolls of inflation—its impact on what were once thought of as traditional American values. Inflation penalizes the thrifty—and rewards those who live beyond their means. The saver finds his savings worth less than when he put them away—while the borrower figures he can pay off next year . . . with cheaper dollars.

But you're not as helpless as you may think against inflation. I'll be back in a minute—with some thoughts on what you can do to make sure we don't get in this kind of mess again.

EPILOGUE

RUKEYSER (on camera). When it comes to mass villainy, not even the Mafia can match what we Americans have done to ourselves through inflation. How then to avoid the same sad cycle in the 1970's?

The real answer has to be that the only painless way of doing so is to prevent inflation from getting going in the first place. The best way to control wages and prices is to control government spending.

It was when Washington's spending burst the bonds that our current inflation took off like a vulture. Businesses and unions were no more greedy than they had been before 1965—so it's silly to try to shift the blame to them. It may be less silly to call them to account for keeping the inflation going longer, and more severely, than necessary. But, as we've seen tonight, the inflation of the late 1960's was not born in a union hall or a company boardroom. It was born in Washington.

And it is in Washington that your voice should be heard.

What can you do? You can let your Congressman know that you're not as dumb as he may think—that you're not going to support any politician who votes freely for public spending . . . and then won't be responsible enough to advocate the taxes needed to pay for it.

For the government can't give anybody anything except with your money now—or with another round of inflation later.

The government must set spending priorities—and stick to them.

To say that government spending must be more tightly controlled is to be neither liberal nor conservative. Arithmetic is nonpartisan.

It may be, as many liberal thinkers have suggested, that the Government must spend much more in some areas. If so, and if we don't want to raise taxes, then the requirement is that we spend less elsewhere.

A similar balance is required of conservatives who denounce high taxes. For a tax revolt without a spending revolt is not a policy. It's just revolting.

If you let Washington know that you want it to act more responsibly with your money, you can look forward to a more solidly based prosperity than even this nation has ever known before.

But if you don't, then the Great Dollar Robbery of the 1960's may seem, in retrospect, like petty theft.

This is Louis Rukeyser. Good night.

Open on newspaper page with Xerox ad prominent. Start to move in on ad

Dissolve in to close-up of form contained in ad. Pan down as hand checks boxes

ANNOUNCER (voice over). Here's your chance to do something about inflation. This ad is in the TV section of many of today's newspapers. Make your feelings about inflation felt by using this form or writing your own letter.

You'll be helping to guide your elected representatives in the battle against rising prices. Your word counts. Why not use it?

ANNOUNCER. Tonight, Xerox Corporation and its world-wide affiliates have brought you "The Great Dollar Robbery"—a penetrating look at why your dollar is shrinking and what you can do about it.

XEROX NEWSPAPER ADVERTISEMENT CONTAINING TABULATED RESULTS

If you're fed up with inflation, watch: "The Great Dollar Robbery" on TV tonight. And send this in tomorrow. Let your senator know how you feel—in (State), Senators ——— or ———.

Inflation chews up your paycheck almost before you cash it. And all you've been able to do is grin and bear it. Until tonight.

Tonight on ABC–TV, Xerox presents a special on inflation—"The Great Dollar Robbery: Can We Arrest Inflation?"

In it you'll see what inflation is, why it is, and what some people are doing about it—like the Virginia housewives who recently went on strike to protest rising meat prices.

But most important, after seeing the show you may be able to make up your own mind on what should be done.

And then you can tell Washington. Fill out the form on next page and mail it to one—or both—of your senators. With your ideas to spur him, he can do his part in the battle against inflation a lot better.

After tonight, you can do more about inflation than just gripe.—XEROX.

Senator_____
Senate Office Building
Washington, D.C.

Dear Senator:

I know you're concerned about rising prices. I'm sending you my opinions on inflation in the hope that they'll help guide you in your efforts in Congress to combat it.

[In percent]

	National survey	Replies to Senator Kennedy
I believe we have inflation because: (check one or more):		
☐ 1. Business firms raised prices too much	65	49
☐ 2. Labor and trade unions demanded and obtained too large wage increases	65	61
☐ 3. The Government spent too much on Vietnam	68	92
☐ 4. The Government spent too much on other things	69	55
☐ 5. The Government did not tax enough	9	16
☐ 6. Consumers spent too much	58	29
☐ 7. Consumers borrowed too much	70	48
☐ 8. Inflation is inevitable; nobody is responsible for it	12	0.2
☐ 9. Other	(1)	14
To slow down inflation, I think: (check one or more):		
☐ 1. Income taxes should be raised	9	13
☐ 2. Interest rates should be raised	11	5
☐ 3. The Government should spend less on Vietnam	[2] 81	92
☐ 4. Consumers should spend less	67	39
☐ 5. Consumers should borrow less	80	57
☐ 6. The Government should control prices	45	25
☐ 7. The Government should control wages	35	21
☐ 8. Inflation is inevitable; nothing can be done to slow it down	9	0.2
☐ 9. Other	(1)	19

[1] Not available.

[In percent]

	More than now		Less than now		About the same	
	National survey	Replies to Sen. Kennedy	Survey	Replies	Survey	Replies
I believe the Government should spend on:						
1. Vietnam	7	0.5	73	94	20	2
2. Other defense	13	2	40	62	47	28
3. Education	61	79	10	2	29	16
4. Welfare payments to the poor	36	56	33	14	31	23
5. Support for agriculture	31	5	34	54	35	30
6. Space exploration	8	2	60	71	32	21
7. Foreign aid	3	7	76	68	21	20
8. Low-cost housing	52	80	18	5	30	12
I believe the Government should spend on—Con.						
9. Highway construction	36	10	17	36	47	44
10. Air pollution	64	87	13	3	23	2
11. Other	(1)	22	(1)	2	(1)	0.2

Sincerely,

_____
(Name)

_____
(Address)

[1] Not available.
[2] This recommendation on Government spending in the national survey was not limited to Vietnam. 81 percent of the replies to the national survey agreed that "the Government should spend less."

"The Great Dollar Robbery: Can We Arrest Inflation?" A Xerox Special Event, December 15, 10 p.m. Channel ———

THAT ALL MAY VOTE

Mr. INOUYE. Mr. President, as a member of the Freedom To Vote Task Force, I am proud to submit for publication the report issued by the task force entitled "That All May Vote." The report deals with one of the most basic problems in our democratic system—the failure of a large number of Americans to vote. Forty-seven million people did not vote in the last presidential election. Four million more people did not vote in 1968 compared with 1964. Since 1960, the number of nonvoters has increased by 8 million. If present trends continue, there will be 70 to 90 million Americans not voting in the next 20 years. This figure is staggering.

The 47 million people who did not vote in 1968 alone is more than the winning presidential candidate received in that election or in any previous election.

The failure or inability to register unnecessarily keeps millions of Americans from voting. This is a principal cause of

nonvoting. If we are to have a viable democratic system that is representative of the needs of the people and responsive to their wishes, we must at least insure that all people qualify to vote.

In this regard, the task force has put forward proposals for a universal voter enrollment plan, a National Election Commission, and a national election holiday.

The universal enrollment plan provides for the full enrollment of all Americans by enrolling officers who would visit every residence in the country and enroll those of voting age population. The plan is similar to that employed in Canada, the United Kingdom, and virtually every other advanced democratic nation in the world. It has been tested and found efficient, safe, and inexpensive in the States of Idaho, South Dakota, and parts of California and Washington. It places principal responsibility on the Government for registering individuals.

The National Election Commission would supervise the quadrennial registration of voters for the presidential election as well as collecting and making available to the public accurate statistics on elections and the laws and procedures covering every election district in the United States. No agency performs such duties at the present.

The national election holiday solemnizes a most important occasion. It also provides the individuals with the unhindered opportunity to cast their ballot.

I believe these proposals deserve the serious attention of Congress and the American people now; therefore, I am pleased to ask unanimous consent that the report be printed in the RECORD.

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

THAT ALL MAY VOTE: A REPORT ON THE UNIVERSAL VOTER ENROLLMENT PLAN, THE NATIONAL ELECTION COMMISSION, A NATIONAL ELECTION HOLIDAY

(By the Freedom to Vote Task Force, Democratic National Committee, December 16, 1969)

PREFACE

On July 10, 1969, Senator Fred R. Harris, Chairman of the Democratic National Committee, appointed the Freedom to Vote Task Force and directed it to find ways to remove all barriers to the right to vote. As Senator Harris noted, "If we really believe in democracy in this country, we must assure every citizen's freedom to vote. If we really believe in citizen participation in this country, we must knock down the registration and other barriers which restrict the right to vote."

Members of the Task Force are:

Francis J. Aluisi, Chairman of the Board, Prince Georges County Commissioners, Prince Georges County, Maryland.

H. S. Hank Brown, Texas AFL–CIO President.

Mary Lou Burg, National Committeewoman, Wisconsin.

Hazel Talley Evans, National Committeewomen, Florida.

Lloyd Graham, National Committeeman, Washington.

Virginia Harris, National Committeewoman, Canal Zone.

U.S. Senator Daniel Inouye, Hawaii.

Mildred Jeffrey, National Committeewoman, Michigan.

Professor Doris Kearns, Harvard University.

J. C. Kennedy, Democratic State Chairman, Oklahoma.

J. R. Miller, Democratic State Chairman, Kentucky.

Clarence Mitchell, Jr., N.A.A.C.P., Baltimore, Maryland.

U.S. Representative John Moss, California.

Richard Neustadt, Jr., Graduate Student, Harvard University.

Rudy Ortiz, Democratic County Chairman, Bernalillo County, New Mexico.

Professor Nelson Polsby, University of California, Berkeley.

U.S. Representative Louis Stokes, Ohio.

Marjorie Thurman, National Committeewoman, Georgia.

J. D. Williams, Attorney, Washington, D.C.

Mildred Robbins, Vice Chairman.

Ramsey Clark, Chairman.

Dr. William J. Crotty, Executive Director.

Fleurette Le Bow, Staff Coordinator.

Sue Meushaw, Staff Assistant.

Lola Oberman, Editorial Writer.

This report is the first of three. It contains the unanimous recommendations of the Task Force for the prompt implementation of a Universal Voter Enrollment Plan, creation of a National Election Commission, and declaration of a National Election Holiday.

Subsequent reports will make recommendations on voter qualifications and inventory existing imperfections in the democratic process.

I. LET THE PEOPLE CHOOSE

Forty-seven million Americans did not vote in the Presidential election of 1968.

This shocking fact must warn the American nation of the steady downward trend in voter participation. The number of non-voters in 1964 was 43 million; in 1960, 39 million. In the past eight years, there has been an increase of 8 million non-voters in Presidential elections. If this trend continues in the next 20 years, we can expect to see from 70 to 90 million American people not participating in the election for the highest office in this land.

The non-voter has undeniable power in determining the outcome of a Presidential election. In 1968, the non-voters exceeded by 17 million the total number of people who voted for Richard M. Nixon. For every vote separating the two major candidates in that election, there were 150 people who did *not* vote. In 1960, for every vote separating the major contenders there were 330 people who did *not* vote. Even in the more decisive elections in our recent history, non-voters could have changed the majority. Franklin D. Roosevelt defeated Alf Landon in 1936 by 11 million votes; Dwight D. Eisenhower defeated Adlai Stevenson in 1956 by 9.5 million votes; and Lyndon B. Johnson defeated Barry Goldwater in 1964 by 16 million votes.

Such a pitiful record of voter participation signifies a profound failing of the democratic system. The number of non-voters in the United States now is greater than the *total* electorates of such democracies as France, England, Italy, West Germany, Canada, and Australia, where voter participation is higher than in our own country. In our last Presidential election, only 61 per cent of the potential electorate voted. In the most recent parliamentary elections in Canada and England, at least 75 per cent of the potential electorate participated. Other democratic nations reach turnouts of 80 to 90 per cent.

Ironically, in earlier times more Americans voted. Between 1840 and 1900—a period marked by the beginnings of mass suffrage and preceding the adoption of restrictive voter registration requirements—an average of three out of four (76.9%) of the electorate voted. In the Presidential contest of 1876, the percentage rose to 82 per cent of the electorate.

The United States has changed immensely since 1876. In only 92 years, the population climbed from 46 million to over 200 million. The winning Presidential candidate in 1876 received 4 million votes; in 1964, the winner received ten times as many. And in 1968, in a three-candidate race, the victor received 31 million votes.

If our population growth is incredible, our technological growth is more so. It is still difficult to grasp the reality of placing a man on the moon in 1969. But other advances are also difficult to grasp. Although we live with these conveniences daily, the mere numbers are staggering: 85 million automobiles in 1968; 100 million television sets, 225 million radios. Increased mobility provided by mass transit and automobile travel should facilitate voter participation. Mass communication—including, along with radio and television, an abundance of newspapers, magazines, and books—should certainly contribute to an informed electorate. And the innovation of electronic voting machines has made the election process speedier.

Yet despite these technological advances, the political participation of Americans has not increased; it has declined.

The decline of democratic participation holds both a danger and a paradox. The danger is that democratic institution cannot function effectively or respond promptly to society's needs unless citizens participate in the decisions that affect their daily lives. A government that "derives its just powers from the consent of the governed" must be able to hear the voice of the people if it is to make orderly, systematic adjustments to the problems of change. It cannot assume that silence is consent. Silence may well imply alienation, frustration and a widening rift between the government and the governed.

The paradox is that while millions of citizens, at odds with basic national policies, are struggling for a more active role in public decision-making, participation in the electoral process continues to wane. We hear much talk of "participatory democracy" and "community control," but there can be little hope for success in the more difficult roles of self-determination when so many citizens are not even involved to the extent that they participate in the election of a President. If we can involve all people in Presidential elections, perhaps we will open all elections to wider participation. Such involvement will achieve needed reforms if democracy is relevant to mass society.

If the people are to make effective use of their political power, they must begin with the Presidency, the focal point of our political system. The Presidency is more important to the people now than ever before in our history. During the 19th century, when three out of four Americans voted for President, the impact of the Presidency was remote to the average citizens.

This is not true today. Now no individual can escape the constant impact of Presidential decision and action. Presidential policy toward such distant places as Vietnam, Biafra, and the Middle East is of direct concern to all. A cold war, a hot war, the threat of nuclear weaponry, and the vast power of the military-industrial complex affect us all. We must look to the wisdom and leadership of the President to solve such urgent problems as inflation, unemployment, crime, poverty, hunger, racism, repression, the pollution of our environment. The problems are legion, and Presidential action is essential to their resolution.

Yet 40 per cent of the people fail to vote for the President. This fact alone warns that the system is not working well.

People who vote believe in the system. They participate. They have a stake in government. But, to the non-participants, their stake in government is not so apparent. Their alienation from the system is harmful not only in their own lives, but it threatens the survival of democracy itself.

Registration efforts must not be concerned with how people vote. The important con-

sideration is that they vote. We can live with decisions made by a full electorate, but those who do not participate may be unwilling to live with decisions they had no voice in making. We must do everything in our power to encourage them to vote. Let the people choose.

We must remove all barriers that stand between the citizen and the ballot box. Chief among these is voter registration, which unnecessarily and arbitrarily bars millions of voters in every election. In our earlier history when we had no registration requirements, a much higher proportion of our population voted. Today, areas which have no registration requirements average 10 to 15 per cent higher in voter turnout than those that do.

The historical reasons for extensive registration requirements are no longer valid. Registration was adopted at the turn of the century to prohibit the abuses of machine politics in the growing cities of the North and to disenfranchise the Negro in the South. Some registration qualifications were intentionally designed to exclude people from voting; others were instituted for reasons long since forgotten. The time has come now for an extensive review of the entire registration process in light of modern needs.

State residency requirements alone exclude millions of mobile Americans from voting. Thirty-three states and the District of Columbia require a one year residency before an individual can register and vote. Of these states, only 18 provide any waiver of the one year requirement in Presidential elections. There can be no justification for such practices. Everyone should at least have the opportunity to vote for President.

Long lines, short hours, inaccessible places, and registration periods remote from the date of election limit registration. Periodic registration drives, with high costs and low results, manifest a system working against itself. A major drive to register voters for the New York City mayoral election in 1969 succeeded in qualifying only 70,000 voters, a mere 3 per cent of the unregistered, for a total registration of only 35 per cent of the voting age population. The cost in money and in volunteer hours was high. Other registration drives have been more successful. A highly unusual competition between two cities—Wausau, Wisconsin and Highland Park, Illinois—in 1956 resulted in registering 99 per cent of the voting age population in both cities. But despite the occasional success story, registration is undeniably a costly and losing battle.

As a result, America—history's greatest democracy—has the lowest democratic participation of any modern nation.

This need not be so. Government has a duty to encourage its citizens to vote and to facilitate the process in every way possible. Some nations seek to achieve maximum participation by compelling citizens to vote. This is not the American way. Compulsory voting may be repugnant to us, but even more repugnant are the arbitrary barriers that impede the citizen's right to vote.

II. UNIVERSAL VOTER ENROLLMENT

There is a way of achieving virtually full enrollment. It is tested, safe, inexpensive and effective. It can vastly increase voter participation. It is Universal Voter Enrollment.

Proven in Canada, South Dakota, Idaho, and in parts of California, Washington and elsewhere, it has achieved enrollments of better than 90 per cent of the voting age population. Universal Voter Enrollment shifts the initial burden of registration from the individual to the government. Government must move from old and inadequate methods that serve to inhibit voter participation to a new and effective method of enrollment. The United States is virtually the only advanced democratic nation that does not have such a plan.

The plan

In the weeks immediately preceding an election, enrollment officers would visit every residence in the land and enroll every qualified person to vote who does not refuse.

For enrollment purposes, the 435 Congressional Districts—the smallest federal election unit—would serve as the unit for enrolling voters. This assures a local operation of manageable size and of comparatively equal population, as well as one that reflects population shifts over the years. Each District would be placed under the supervision of a local District Director. Teams of volunteer sworn election enrollment officers would be recruited and trained by professional staff personnel in comprehensive canvass and enrollment procedures. They would be assigned limited areas within the District in which they would be responsible for enrolling everyone of voting age population.

The enrollment officers would begin with existing lists of state and local voting registration. In the canvass of every residence, enrollment officers would confirm the accuracy and completeness of the lists. Those already registered would be offered federal enrollment if they desired it. Errors and omissions in existing lists would be reported to local officials. In addition, every qualified person who is located and does not refuse enrollment would be placed on the rolls of the District.

Each enrollee would be given a certificate which he would sign together with the District Roll in the presence of the officer. On election day the enrollee, if not registered for state purposes, would present his enrollment certificate for validation, countersign the District Roll, and vote on a special ballot for President and Vice President. If registered for state purposes, he would vote on state ballots, but could have his federal certificate validated as evidence of his having voted.

If the proper authority in a state or local district chose to do so, it could request full state or local registration by the federal enrollment officials. Any jurisdiction which followed this course would have virtually full enrollment at no expense. State or election districts which preferred to perform enrollment functions themselves, on giving adequate evidence of non-discrimination and the removal of all arbitrary barriers to qualification and on obtaining an enrollment exceeding 90 per cent would be eligible to receive federal funds which would otherwise be spent in the jurisdiction for federal enrollment. Under either alternative, a full and uniform enrollment of all voters would be achieved.

To assure awareness of the enrollment effort, and because some people will inevitably be missed in even the most careful canvass, advertising on radio, TV, and in newspapers during the weeks of enrollment and for several days immediately preceding the election would inform the people of their duty to enroll and vote and of the procedures for doing so.

No citizen would be barred from voting because of failure to enroll before election day, or loss of enrollment certificate, or absence from his District or from the country. Nor would he be disqualified from voting for President if he changed his place of residence—even the day before the election. He would simply have to complete an affidavit identifying himself, following a procedure no more complicated than that required to cash a check. On completion of the affidavit, he would be permitted to vote, and his ballot would be placed in a sealed envelope with the affidavit attached. If he were voting outside the District—for example, at an American Consulate in a foreign country—his sealed ballot and affidavit would be placed in a special delivery envelope addressed to the District Director of his place of residence. Mailed ballots would receive full franking privileges. When the statements in his affidavit were verified, the envelope containing his ballot would be placed with all other ballots received in this manner, opened, and counted. Perjury or misrepresentation would be a federal offense.

III. THE NATIONAL ELECTION COMMISSION

To administer and supervise the Universal Voter Enrollment Plan, a National Election Commission would be created. A National Director would serve as its chief executive officer. The National Director should be a non-partisan figure, nationally known and respected. He would be limited to a term of four years, beginning on January 1st of the year following a Presidential election. His primary responsibility would be to achieve full voter enrollment. To assist him in the execution of his responsibilities, an adequate staff of career personnel would be maintained in the national office.

A National Review Board would be appointed by the President from nominations made by the major political parties and independent non-partisan organizations. The Review Board would oversee the performance of the Commission, hear complaints, and recommend methods for improving the elective process. It would report to the President.

The Commission would also be charged with maintaining complete records of all election returns and all laws and procedures for every public election district in the nation. These would be available to the public. At present there is no single depository for such information. As a result, it is extremely difficut to obtain complete and accurate election information from existing sources.

The Commission would be authorized to study and comment on the adequacy and fairness of the election processes of any public jurisdiction, but it would have no power over any state, local or special election district officials. The Commission would also be instructed to undertake any study requested by any public election district designed to improve voter participation or guarantee a republican form of government. It would report to the Congress after each Presidential election, evaluating the thoroughness and fairness of the registration effort and presenting the final election returns. Periodically it would make available studies on the quality of American voter participation.

The District Director in each of the 435 federal election districts would be provided with staff and funds in election years to carry out the duties of his office. Federal Election Enrollment Officers would be volunteer workers serving without compensation. Recruited from civic groups, educational institutions, and individual interest, they would be commissioned as federal officers and subject to federal penalties. They would receive suitable recognition for their public service.

Estimated total costs for the operation of the Commission are $5 million in non-Presidential election years and $50 million in Presidential election years. This averages less than 50¢ per eligible voter in election years—a small price to pay for the involvement of all citizens in the electoral process.

IV. NATIONAL ELECTIONS HOLIDAY

The Task Force recommends a national holiday on the date of every Presidential election to assure full opportunity for voter participation and to solemnize this as the most important occasion for the exercise of a citizen's obligations in a free society. The nation can no longer afford to treat voting as a secondary responsibility. The survival of our institutions of government depends on the vitalization of individual participation in the democratic process.

The recommendations embodied in this re-

port do not promise full reform of our system of election. There is no single remedy for so diverse a society. The Universal Voter Enrollment plan does offer an effective and vital reform that assures a substantial increase in voter participation. The need now is for immediate action.

APPENDIX I—THE NATIONAL ELECTION COMMISSION

The National Election Commission would enroll all individuals of voting age population for Presidential elections. In addition, it would perform a number of duties directly related to its principal concern. The National Election Commission would:

1. Enroll all voters for Presidential elections;

2. Report on its enrollment effort and obtain complete and accurate results of each Presidential election;

3. Create an election information center, a public repository of all laws, regulations and procedures and data on voter participation and election results for federal, state, local and special district elections;

4. Study the elective process to assure full voter participation, intergrity and efficiency in federal, state and local elections with authority to advise and consult with governmental and non-partisan private groups seeking to improve the democratic process and to report on elections and election practices and recommend techniques for their perfection;

5. Aid and assist governmental and private non-partisan efforts to achieve full voter participation;

6. Train federal enrollment officers and provide training programs for state and local election officials on request.

The National Election Commission would assure all qualified individuals of their right to vote for President and serve an educational function by providing information and analyses relevant to elections. It would collect election laws and the results of public elections held in the United States and make these available to all interested groups and individuals.

The National Election Commission would be non-partisan. The Director would be appointed by the President with the consent of the Senate. The Director would supervise the National Election Commission as its chief executive officer. He should be a national figure known for his integrity. The Director would be limited to one four-year term beginning on the first day of the January following a Presidential election.

The Commission would have professional staff of adequate size to perform its duties. Its division would include: (1) enrollment service, (2) information, (3) research, and (4) training. The operating budget of the Commission would approximate $5 million annually.

The operating budget would be increased substantially in Presidential election years to approximately $50 million. The major portion of the additional expense would be to cover the costs of enrolling all eligible voters through door-to-door contact.

DISTRICT DIRECTORS

In election years, the Director of the National Election Commission would appoint 435 District Directors—one for each of the Congressional Districts—to supervise the enrollment of voters within their districts.

The District Director's position would be unsalaried.

The District Director would have one responsibility—preparing for and supervising the enrollment of all voters in his district.

The District Director would receive a grant of up to 50¢ for every person of voting age residing in his district to cover enrollment expenses.

Any state or local governmental agency operating throughout a Congressional District where 90 per cent or more of the eligible electorate is enrolled through local efforts prior to July 1 of any Presidential election year may receive the federal funds available for the District as a grant-in-aid to help defray registration and election costs. A state reaching a 90 per cent or better enrollment of its eligible voters may receive a sum equivalent to the federal funds available for all Congressional Districts within its borders that attain a 90 per cent or better registration.

DISTRICT STAFF DIRECTOR

The District Director would also have responsibility for hiring a Staff Director to serve for a six-month period (July 1– December 31) during each Presidential election year to supervise administration of the enrollment program in the district. This position would be compensated at an attractive salary to obtain the full time services of a well qualified individual who might take leave of absence from business, education or a profession.

The National Election Commission and its Director would provide the local District Director and his staff with supervision, training and all possible aid in enrolling voters in their districts. The emphasis would be on decentralizing administrative responsibilities and performance. The system as a whole must be flexible and with the capacity to adjust to the peculiar demands and enrollment needs of each of the districts.

THE DISTRICT BOARD

Each district shall have a review board of at least five members nominated in equal numbers by the political parties whose candidates received more than 10 per cent of the vote in any public election covering the entire district within the past four years. Whenever an additional board member is necessary to achieve an odd number of board members, the District Director shall appoint one member to the Board.

The District Board shall:

1. Consult with, advise, and recommend methods for full enrollment and fair election procedures to the District Director.

2. Review complaints and report its findings to the District Director and the National Review Board.

ENROLLMENT OFFICIALS

The Staff Director, under the supervision of the District Director, and in consultation with the District Board would recruit individuals to conduct the actual enrollment of citizens. This service would be voluntary and the enrollment officers would not be financially compensated.

The enrollment officials would be drawn from civic groups, political party workers, or other organizations and individuals who might want to volunteer their services. Each district should recruit not fewer than one enrollment officer for each one hundred persons of voting age in the district.

In performing their duties, enrollment officers would be administered oaths of office as public officials and subject to legal penalties for any prospective abuse of their offices.

Enrollment officers would be required to attend training sessions prior to participating in the enrollment of voters.

NATIONAL REVIEW BOARD

A National Review Board of fifteen members would be appointed by the President from among those nominated by political parties and independent non-partisan citizen organizations. Nominations from the political parties would equally represent all political parties that received 5 per cent or better of the vote in the previous Presidential election. Combined with the nominations from the non-partisan citizen groups, the Board would reflect the balance of national interests. It would be charged with overseeing the activities of the Commission. The Review Board would:

1. Consult with, advise, and recommend methods for inclusive enrollment and fair election procedures to the Director of the National Election Commission,

2. Review complaints, and

3. Recommend to the Director of the National Election Commission the improvement of practices in specific districts and order the replacement of individual District Directors where the integrity of the democratic process requires.

APPENDIX II—THE ENROLLMENT OF VOTERS

The quadrennial enrollment of voters would begin on the first Monday in October and would be concluded by the end of the third week in October. The enrollment drive would be short and intensive. It is intended to coincide with the interest and enthusiasm generated during the campaign period. Enrollment activities would complement party and candidate efforts and should help to stimulate interest in the election and a higher turnout on election day.

Enrollment officials would be required to make a minimum of two personal calls at every place of residence in the district, if all voting age residents were not contacted on the first visit. If the personal visits fail to reach every voting age resident, the enrollment official would be required to leave notification of the times and places where the individual would be able to enroll.

The enrollment officials would be required to compare their enrollments lists with all other available voting lists compiled by state or local governmental agencies to insure that no eligible voter had been omitted from the enrollment.

If the proper state and/or local authorities requested it, enrollment officials would enroll voters for state and/or local elections at the same time they were enrolling them for the Presidential election.

Also, if the state or local authorities requested it, the federal enrollment lists would be made available to the proper state or local agencies to update their enrollment records or to serve as a guide to the voting age population.

Any enrollment list not turned over to state or local authorities for the purposes specified would be destroyed within one month of the official certification of the election results. No registry of citizens would be maintained at the national or district level.

When an individual was enrolled as a voter he would receive a card certifying his enrollment. The card would bear the individual's name, his address and his signature, in addition to the signature of the enrolling official. The same information would appear on the list compiled by the enrollment official and would be available at the polls on election day.

The individual would present his voter card to the election officials at the polls on election day. The card would be validated by the election officials. The voter would also sign the enrollment registry beside the signature obtained at the time of his enrollment. These procedures would safeguard the integrity of the election.

The enrollment as described would qualify an individual to vote for the President and Vice President. If an individual has registered under state law prior to federal enrollment, he need not enroll to vote for President.

Any individual who was eligible to vote yet whose name did not appear on the enrollment lists would have two options after the regular enrollment period had ended:

1. He could contact the District Director or other designated officials who would have the power to determine the individual's eligibility and add his name to the enrollment list, or

2. He could appear at the polls on election

day, sign an affidavit that he was eligible to enroll and cast a special ballot for the President. The ballot would be sealed and then placed in an envelope with the affidavit supporting enrollment. It would be the duty of the District Director to determine the voter's eligibility. If found eligible, the ballot would then be counted along with all others cast in this manner and the results added to the election tally.

An individual who loses his enrollment card could still vote. His ballot would be held separately, under procedures described above, until his eligibility was determined by the local election officials from the information in the affidavit.

An individual absent from his home district, but otherwise eligible to vote in the election, could vote for the President at another polling place. To do so, he would have to provide the local election officials with proper identification—name, address, signature, plus personal identification similar to that for cashing a check. The burden of proof in this case would be placed on the individual. Special ballots could be provided for these contigencies. These ballots would be air mailed, special delivery—franking privileges would be provided—to the individual's home District Director. He would determine the elibility of the voter and then count his sealed ballot along with the others received in this manner.

APPENDIX III.—TURNOUT IN PRESIDENTIAL ELECTIONS, 1824–1968, BY STATE

State	1824	1828	1832	1836	1840	1844	1848	1852	1856	1860
Alabama	49.1	54.6	(1)	64.9	89.7	80.3	69.7	45.3	71.0	76.7
Alaska										
Arkansas				28.9	67.6	63.4	55.9	48.6	60.2	79.5
California								75.7	81.6	71.2
Connecticut	14.9	27.2	46.0	52.3	75.7	80.0	72.3	72.3	81.8	73.3
Delaware	(2)	(2)	67.1	69.5	82.8	85.8	80.4	75.0	78.5	79.5
Florida							64.0	56.9	77.6	79.5
Georgia	(2)	31.8	29.0	61.8	88.8	92.6	86.0	54.8	82.8	85.1
Hawaii										
Illinois	24.3	52.4	46.0	43.5	86.0	76.0	70.5	64.7	72.4	80.5
Indiana	37.1	68.7	71.9	69.2	84.4	84.7	78.5	80.3	88.3	89.4
Iowa							90.7	80.2	87.0	94.2
Kentucky	25.4	70.7	74.0	61.1	74.3	80.7	73.9	64.2	76.7	74.1
Louisiana	(2)	36.2	22.3	19.2	39.4	47.1	51.1	48.7	53.6	58.6
Missouri	19.1	42.7	66.2	37.7	83.7	71.3	68.4	61.2	78.1	68.9
Maryland	53.7	70.3	55.7	67.6	84.5	81.4	76.0	72.8	80.0	81.1
Massachusetts	29.0	25.7	39.4	43.4	66.7	65.8	64.6	57.8	69.8	65.8
Michigan				35.0	84.9	79.8	74.5	71.3	81.1	80.0
Minnesota										74.9
Mississippi	41.3	56.6	28.0	64.4	88.2	86.1	80.7	61.7	78.3	89.5
Missouri	19.8	54.0	41.0	36.1	75.1	77.8	62.5	46.3	54.7	69.4
New Mexico	18.0	74.3	70.1	38.2	86.3	68.9	67.4	65.7	87.9	80.7
New Jersey	35.6	71.0	68.8	69.2	80.4	87.2	82.7	79.8	83.1	89.4
New York	(2)	80.2	84.2	70.5	91.9	92.1	79.6	84.7	89.9	95.5
North Carolina	41.8	56.9	31.3	53.0	82.4	78.8	71.4	65.8	66.7	70.9
Ohio	34.8	75.9	73.9	75.5	84.5	83.6	77.5	80.6	82.3	88.3
Oregon										97.8
Pennsylvania	18.8	56.5	52.3	53.1	77.5	77.3	76.3	72.6	80.8	78.4
Rhode Island	12.0	17.1	26.3	23.8	33.2	45.1	41.1	57.8	62.9	59.4
South Carolina	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Tennessee	28.3	55.0	31.3	57.3	89.7	89.8	83.4	72.9	82.9	80.9
Texas							69.6	42.6	58.1	67.4
Vermont	(2)	54.5	50.0	52.5	73.8	70.8	70.5	63.5	72.5	63.0
Virginia	11.6	27.7	31.1	35.2	54.7	54.2	47.3	63.3	67.8	71.5
Wisconsin							58.3	39.6	80.8	79.0
United States	26.9	57.7	55.4	57.8	80.2	78.9	72.7	69.6	78.9	81.2

[1] Not applicable. [2] Figures not available.

State	1864	1868	1872	1876	1880	1884	1888	1892	1896	1900
Alabama	(1)	77.9	79.6	72.8	58.8	54.2	56.6	68.5	51.9	38.9
Arkansas	(1)	49.0	67.6	64.7	59.5	59.1	68.9	55.0	48.2	40.8
California	64.6	72.3	57.9	75.9	67.1	68.8	76.5	73.8	75.0	69.9
Colorado				(1)	57.4	52.4	57.4	54.6	65.2	71.2
Connecticut	76.3	80.1	71.3	82.0	81.4	79.9	85.5	85.4	83.3	79.7
Delaware	79.8	84.3	73.3	73.4	81.9	76.0	68.8	80.4	64.6	81.9
Florida	(1)	(1)	77.0	93.5	85.9	83.1	85.0	35.3	40.0	29.9
Georgia	(1)	73.2	55.2	63.5	49.4	41.0	37.6	53.1	34.3	24.4
Idaho								63.1	76.1	77.8
Illinois	69.2	76.7	75.0	87.5	89.9	84.4	82.9	86.0	95.7	89.9
Indiana	82.9	92.5	85.3	94.6	94.4	92.2	93.3	89.0	95.1	92.1
Iowa	95.4	97.7	79.0	99.1	93.7	90.0	87.9	88.5	96.1	91.0
Kansas	31.8	51.3	77.8	65.7	80.8	85.1	88.2	80.7	85.5	91.2
Kentucky	44.0	69.9	66.2	80.9	75.5	70.8	81.1	73.8	89.2	87.0
Louisiana	(1)	75.9	76.4	77.9	50.3	49.8	50.0	45.1	35.8	21.7
Maine	73.2	74.4	57.9	71.5	85.0	7.50	71.7	63.5	63.0	56.0
Maryland	57.7	72.6	75.0	82.7	79.8	79.9	84.8	79.9	87.3	85.9
Massachusetts	63.8	66.9	62.0	72.3	71.2	69.3	71.7	74.6	70.6	67.4
Michigan	66.2	77.4	64.0	78.0	75.5	76.0	80.9	73.2	95.3	89.0
Minnesota	57.6	71.1	76.5	71.3	68.9	68.2	76.3	66.6	75.2	76.7
Mississippi	(1)	(1)	71.1	79.7	50.1	49.2	43.8	18.8	22.1	16.9
Missouri	36.3	43.0	66.6	76.6	78.0	77.0	81.8	77.4	88.5	83.1
Montana								74.2	73.8	75.3
Nebraska		46.1	43.7	53.0	67.7	67.8	75.9	66.2	74.1	80.2
Nevada	57.5	73.7	74.4	90.0	76.5	61.6	71.4	70.1	69.2	71.4
New Hampshire	84.3	82.3	80.9	92.0	93.3	87.4	90.2	85.8	78.1	83.9
New Jersey	81.0	89.5	81.4	94.8	95.4	88.6	91.9	90.3	88.4	85.9
New York	89.3	91.7	80.5	89.6	89.3	87.5	92.3	86.3	84.3	84.6
North Carolina	(1)	91.2	71.9	90.1	83.0	86.3	85.2	78.0	85.3	70.2
North Dakota								56.6	63.1	65.2
Ohio	87.6	90.4	84.4	94.4	94.4	93.4	91.9	86.2	95.5	91.5
Oregon	91.8	85.8	60.5	70.4	79.1	65.0	93.5	58.4	69.9	58.3
Pennsylvania	85.0	88.3	68.6	83.5	88.8	82.3	83.0	75.7	81.8	75.0
Rhode Island	58.8	46.6	40.2	49.4	48.7	48.1	53.4	63.0	59.2	56.2
South Carolina	(1)	79.6	60.4	101.0	83.9	43.0	35.0	29.1	25.2	18.0
South Dakota								70.7	78.0	85.4
Tennessee	(1)	39.7	66.2	74.6	75.1	73.1	77.6	64.0	70.8	56.6
Texas	(1)	(1)	56.3	54.6	68.8	80.2	78.3	79.4	88.3	61.4
Utah									79.4	84.5
Vermont	77.0	75.9	69.1	83.3	81.6	70.5	71.4	60.4	67.5	57.9
Virginia	(1)	(1)	66.2	77.6	64.1	81.7	83.2	75.3	71.0	59.6
Washington								67.3	63.1	64.9
West Virginia	51.6	58.0	61.2	83.6	82.6	86.7	94.5	90.3	93.6	91.3
Wisconsin	66.8	79.8	70.6	83.9	82.4	82.2	81.1	76.8	84.9	77.5
Wyoming								47.7	50.7	51.1
United States	73.8	78.1	71.3	81.8	79.4	77.5	79.3	74.7	79.3	73.2

[1] Figures not available.

State	1904	1908	1912	1916	1920	1924	1928	1932	1936	1940
Alabama	24.2	21.5	22.6	24.3	20.6	13.5	19.1	17.5	18.8	18.9
Arizona			38.6	48.7	46.8	44.4	47.9	55.1	52.0	57.0
Arkansas	33.8	40.2	30.7	40.0	20.9	15.3	21.4	22.1	17.3	18.2
California	61.7	60.2	46.9	58.0	47.2	50.8	59.0	64.0	66.0	73.4
Colorado	71.0	65.4	59.1	60.5	56.0	62.5	68.4	75.3	75.5	79.7
Connecticut	80.5	76.3	71.5	73.8	58.7	57.9	72.6	70.8	74.6	77.2
Delaware	82.0	86.2	84.1	86.1	75.1	68.1	75.3	76.3	79.8	79.4
Florida	24.4	26.2	24.2	33.8	30.3	17.0	33.0	30.5	31.3	40.9
Georgia	23.8	22.0	18.9	23.7	10.5	11.5	15.7	16.5	17.7	17.7
Idaho	65.3	65.8	59.8	67.4	61.1	65.2	66.0	74.4	71.8	77.0
Illinois	80.5	81.6	74.7	66.8	60.5	64.1	73.4	74.6	81.6	82.2
Indiana	89.7	89.9	77.8	81.9	71.0	70.7	74.9	78.9	78.7	81.1
Iowa	79.7	77.6	74.2	75.0	64.5	68.4	68.9	69.1	73.6	75.5
Kansas	78.1	82.5	76.3	65.8	58.0	64.1	65.9	71.1	76.6	75.1
Kentucky	77.7	84.0	74.6	82.8	71.8	61.0	67.7	67.4	59.9	59.5
Louisiana	15.6	19.8	19.3	21.6	14.1	12.4	20.1	23.4	27.3	29.4
Maine	49.5	53.2	63.4	65.1	46.9	44.9	60.2	66.3	64.4	65.0
Maryland	69.6	70.9	64.8	68.1	52.3	41.0	56.8	51.2	58.1	57.2
Massachusetts	67.6	65.1	63.4	62.8	53.3	56.6	74.0	69.5	75.9	78.7
Michigan	78.9	75.9	69.8	72.9	55.1	53.7	56.3	62.0	62.1	66.6
Minnesota	64.3	66.1	61.2	65.0	59.5	62.0	68.5	66.2	69.7	72.3
Mississippi	15.6	16.5	15.1	20.0	9.4	12.0	15.2	13.8	14.4	14.7
Missouri	74.9	79.7	74.9	81.5	67.6	63.3	69.1	70.9	77.3	74.4
Montana	65.8	61.9	63.3	68.0	61.4	59.2	65.3	70.3	70.8	72.2
Nebraska	70.1	77.8	77.1	84.5	55.7	63.8	71.5	72.1	75.6	75.4
Nevada	59.2	92.1	68.1	73.6	61.0	56.1	63.0	73.2	69.1	75.7
New Hampshire	81.6	80.8	78.2	77.3	67.5	67.4	77.8	77.5	77.8	79.6
New Jersey	83.6	82.4	69.1	70.7	59.1	60.7	75.6	72.0	75.0	76.7
New Mexico			59.6	77.8	62.3	61.8	60.3	69.7	68.7	66.6
New York	83.3	79.7	72.1	71.6	56.4	56.3	68.3	66.1	72.6	75.7
North Carolina	46.1	52.0	46.1	49.8	44.6	35.9	43.1	44.0	47.4	42.7
North Dakota	61.4	73.2	60.8	77.7	67.4	63.8	72.4	74.5	78.0	78.4
Ohio	83.1	87.5	74.8	76.5	62.6	57.8	66.9	65.5	71.8	75.4
Oklahoma		71.5	57.4	60.4	48.6	47.4	50.5	54.4	56.4	60.5
Oregon	47.6	47.3	51.8	54.2	52.3	55.3	57.7	60.7	62.5	67.1
Pennsylvania	74.3	71.8	64.4	63.4	42.8	45.8	62.7	53.1	72.5	67.6
Rhode Island	63.4	62.4	62.7	65.8	57.9	66.3	68.9	71.7	78.0	75.6
South Carolina	18.4	20.6	14.6	17.5	8.6	6.4	8.5	12.3	12.5	10.1
South Dakota	73.0	69.5	61.9	60.9	56.6	59.4	72.0	76.5	77.5	79.5
Tennessee	47.7	48.1	45.1	46.6	35.4	23.3	25.7	26.5	30.0	30.6
Texas	29.6	33.6	30.8	35.0	21.7	25.8	24.8	27.2	24.8	30.1
Utah	78.4	73.0	66.4	79.5	69.6	69.7	73.4	80.0	77.9	83.1
Vermont	50.7	48.9	56.8	58.2	45.3	51.3	66.8	66.6	68.5	22.1
Washington	60.9	59.0	50.8	54.7	52.4	51.2	56.6	64.2	66.6	70.6
West Virginia	89.2	86.9	81.9	83.6	71.7	75.2	76.4	81.9	84.9	83.0
Wisconsin	72.0	68.7	68.7	70.7	52.3	57.3	65.9	65.1	68.9	72.4
Wyoming	50.8	49.2	50.3	54.9	52.3	71.0	68.7	74.9	74.0	74.8
United States	65.2	65.4	58.8	61.6	49.2	48.9	56.9	56.9	61.0	62.5

APPENDIX III.—TURNOUT IN PRESIDENTIAL ELECTIONS, 1824–1968, BY STATE—Continued

State	1944	1948	1952	1956	1960	1964	1968
Alabama	15.0	12.6	24.2	27.6	31.2	36.0	51.5
Alaska					49.1	48.7	56.4
Arizona	42.2	45.4	53.9	47.8	53.8	54.7	43.6
Arkansas	19.3	21.9	36.9	38.0	41.1	49.9	52.5
California	65.1	63.2	69.4	64.0	67.9	64.7	61.0
Colorado	67.9	64.5	76.2	69.2	71.4	68.0	70.2
Connecticut	73.9	71.2	80.9	75.8	76.8	71.8	68.5
Delaware	66.9	68.5	78.4	72.7	73.6	71.1	71.7
Florida	33.5	34.1	47.6	43.6	50.0	52.7	58.2
Georgia	17.6	21.4	31.9	29.6	31.2	44.9	41.6
Hawaii					53.0	52.5	62.7
Idaho	64.5	63.1	78.2	75.2	80.7	75.8	72.8
Illinois	74.8	70.3	76.0	72.4	75.7	74.0	69.3
Indiana	71.7	67.2	75.7	73.7	76.9	74.0	71.5
Iowa	64.3	62.4	75.8	74.0	76.5	72.3	71.6
Kansas	62.2	65.0	71.7	67.4	70.3	64.8	63.5
Kentucky	51.9	49.6	58.9	58.6	60.5	52.9	46.8
Louisiana	25.1	27.5	40.2	36.0	44.8	47.3	55.6
Maine	57.3	49.0	63.1	61.8	72.6	65.6	67.5
Maryland	46.7	41.7	57.5	54.6	57.2	56.0	57.7
Massachussetts	71.0	71.5	75.0	72.0	73.8	71.3	67.8
Michigan	63.7	55.6	68.5	71.1	72.4	68.9	64.9
Minnesota	63.0	65.7	72.6	68.7	77.0	76.8	71.8
Mississippi	15.0	16.0	23.8	21.0	25.5	32.9	51.6
Missouri	62.2	61.0	71.8	68.8	71.8	67.4	63.1
Montana	59.0	62.3	71.8	71.6	61.4	69.8	65.0
Nebraska	67.9	58.2	71.9	67.6	71.4	66.6	59.9
Nevada	64.8	64.0	69.7	65.9	61.2	55.5	54.2
New Hampshire	73.5	70.3	79.2	74.4	79.4	72.3	70.9
New Jersey	69.1	63.0	72.3	68.9	71.8	68.6	65.1
New Mexico	48.8	53.4	60.5	56.8	62.1	63.9	63.3
New York	70.9	65.0	71.2	67.9	67.0	63.2	57.3
North Carolina	38.0	35.4	51.3	47.4	53.5	51.8	54.7
North Dakota	61.5	61.6	75.5	71.3	78.5	72.2	65.5
Ohio	66.9	58.4	69.7	66.4	71.3	66.6	63.6
Oklahoma	52.8	52.5	68.6	61.4	63.8	62.5	62.9
Oregon	58.4	56.5	69.6	71.1	72.3	69.6	64.4
Pennsylvania	59.8	56.0	66.5	65.5	70.5	68.1	63.2
Rhode Island	65.0	66.0	79.8	73.2	75.1	68.7	68.2
South Carolina	9.8	12.8	29.1	24.7	30.5	38.0	48.0
South Dakota	59.3	63.3	74.4	74.7	78.3	72.6	70.8
Tennessee	28.2	28.7	44.7	45.9	50.3	51.1	53.0
Texas	28.2	26.0	43.5	37.9	41.8	44.4	51.6
Utah	75.0	76.0	82.9	77.2	80.1	76.9	76.9
Vermont	56.9	54.5	66.8	66.5	72.5	68.0	65.5
Virginia	22.3	21.6	29.9	31.8	33.3	41.0	53.1
Washington	67.0	63.2	71.2	70.4	72.3	71.5	65.0
West Virginia	65.5	65.8	76.3	74.6	77.2	75.2	70.0
Wisconsin	65.7	59.8	72.5	67.8	73.4	70.8	68.0
Wyoming	63.3	59.6	72.5	67.4	74.0	73.2	69.3
District of Columbia						40.2	33.5
United States	55.9	53.0	63.3	60.6	64.0	61.8	60.6

Source: Compiled by Prof. Walter Dean Burnham, department of political science, Washington University, St. Louis, Mo.

APPENDIX IV.—TURNOUT IN U.S. SENATE ELECTIONS, 1946 TO 1968

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
Alabama		(1)	(1)		(1)	(1)		(1)	21.5		40.5	44.4
Alaska							75.6	72.2	51.5		44.8	
Arizona	31.7		43.9	52.0		47.7	48.5		43.8	53.3		50.6
Arkansas		(1)		(1)	(1)	(1)		(1)	(1)		(1)	50.3
California	39.7		51.1	61.9	49.0	63.7	58.7		55.9	65.3		59.7
Colorado		70.8	53.3		56.0	66.8		71.6	57.2		55.8	66.5
Connecticut	49.9		62.0	75.7		76.4	66.2		63.3	71.1		66.1
Delaware	59.9	72.1		77.6	62.7		57.4	73.9		70.7	56.3	
Florida	(1)		(1)	(1)		(1)	(1)		28.3	45.2		52.7
Georgia	(2)	(2)	(2)	(2)	(1)	(1)		(1)	31.7		(1)	(1)
Hawaii								[3] 51.0	59.1	52.9	52.0	
Idaho	56.9	67.4	57.7		64.3	75.2		78.5	67.7		65.1	71.8
Illinois		66.0	60.7		56.1	70.0		74.9	59.5		59.4	67.4
Indiana	53.9		62.9	74.1		72.0	62.4		64.8	73.7		69.4
Iowa		58.2	50.6		51.3	70.7		74.2	48.8		52.4	69.3
Kansas		55.4	41.8		49.1	64.5		67.6	48.4		51.8	59.6
Kentucky	38.6	49.1	35.4	58.0	46.9	54.4		58.0	43.7		37.0	45.7
Louisiana	(1)	(1)			(1)	(1)		(1)	28.1		(1)	(1)
Maine	31.0	39.3		43.5	43.3		50.2	72.6		66.1	55.6	
Maryland	33.7		40.3	56.1		52.5	43.3		38.7	54.3		54.3
Massachusetts	53.8	63.7		73.3	57.5		58.7	74.9	64.7	71.2	60.9	
Michigan	40.9	51.7		66.2	49.2		48.8	71.4		66.5	51.1	
Minnesota	47.2	64.0		73.1	58.5		57.0	76.7		76.5	62.2	
Mississippi	(1)	(1)	16.8	(1)	(1)		(1)	(1)		(1)	31.5	
Missouri	42.8		48.3	70.3		66.3	44.0	70.9	45.9	65.3		61.2
Montana	64.0	69.2		62.5	60.2		57.5	71.5		70.9	65.8	
Nebraska	45.8	55.7	66.0	67.1	48.9		46.7	69.9		64.8	56.6	
Nevada	55.8		57.6	70.5	57.4	64.3	55.2		50.6	54.7		54.1
New Hampshire		61.1	53.7		48.4	71.0		78.4	59.5			67.7
New Jersey	45.4	57.0		66.7	50.6		51.5	69.6		65.7	49.7	
New Mexico	48.9	63.9		63.8	49.1		49.1	61.2		63.8	49.8	
New York	51.7		52.7	66.6		64.5	53.1		51.8	63.5		56.1
North Carolina		(1)	(1)	(1)	(1)	(1)		(1)	31.5		31.7	48.8
North Dakota	(2)		50.9	68.0		64.4	54.0		64.3	71.9		65.3
Ohio	43.9		51.2	64.3	45.9	61.8	55.4		50.5	64.4		60.0
Oklahoma		49.3	45.7		43.9	62.9		61.8	46.1	61.6	42.9	59.3
Oregon		44.9	50.2		54.4	68.1		69.4	57.5		58.2	65.6
Pennsylvania	46.6		50.7	64.2		64.3	56.8		61.6	67.8		63.7
Rhode Island	53.1	60.5	55.4	77.1	62.2		63.6	75.0		70.8	59.0	
South Carolina		(1)	(1)		(1)			(1)	25.0		31.1	44.9
South Dakota	64.6	62.6		60.4	60.4	71.4		78.8	63.9		59.3	72.5
Tennessee	(1)	(1)		(1)	(1)		(1)	(1)		47.8	38.0	
Texas	(1)	(1)		(1)	(1)		(1)	(1)	15.8	44.2	24.6	
Utah	55.4		67.8	79.0		75.3	63.6		63.7	78.2		75.5
Vermont	32.2		37.5	66.7		69.6	56.6		52.3	70.2		(1)
Virginia	(1)	(1)		(1)			20.9	27.8		36.8	28.2	
Washington	45.2		47.7	68.6		69.7	54.1		54.8	69.4		67.3
West Virginia	52.2	68.2		77.7	53.1	70.2	55.6	76.3		71.5	46.4	
Wisconsin	48.8		50.2	71.3		65.4	50.1		52.8	70.4		67.0
Wyoming	49.5	60.0		72.3	62.4		62.7	74.5	59.4	74.2	66.0	

[1] Ran unopposed.
[2] Not available.
[3] 1959.

Source: COPE research department, Washington, D.C.

APPENDIX V—TURNOUT IN U. S. HOUSE OF REPRESENTATIVES, ELECTIONS, 1920–68

(Vote as a percentage of the civilian population of voting age)

Year:	(Percent)	Year:	(Percent)	Year:	(Percent)
1920	41.4	1940	56.2	1960	59.4
1922	32.4	1942	32.7	1962	48.9
1924	41.0	1944	53.0	1964	57.8
1926	30.1	1946	37.6	1966	45.6
1928	48.2	1948	48.6	1968	54.8
1930	34.1	1950	41.6		
1932	50.2	1952	58.2		
1934	41.8	1954	42.2		
1936	54.0	1956	56.6		
1938	44.5	1958	43.4		

Source: U.S. Bureau of the Census, Statistical Abstract of the United States: 1962 83d ed., Washington, D.C., 1962; Congressional Quarterly, Washington, D.C.

APPENDIX VI

TURNOUT IN GUBERNATORIAL ELECTIONS, 1946 TO 1968

State	1946	1948	1950	1952	1954	1956	1958	1960	1962	1964	1966	1968
Alabama											42.8	
Alaska							75.3		50.2		44.8	
Arizona	33.4	47.0	46.3	52.6	43.3	49.5	48.0	58.4	44.2	53.9	42.6	51.1
Arkansas									31.7	52.9	49.7	52.3
California			52.6		50.3		60.1		57.9		57.7	
Colorado	47.6	68.6	53.4	69.7	56.6	67.7	55.3		57.5		58.1	
Connecticut	48.0	63.6	63.4	75.7	63.1		66.6		63.4		57.8	
Delaware		71.6		77.6		70.9		73.8		70.5		67.6
Florida										47.4	41.2	
Georgia	(1)	(1)	(1)	(1)					35.4		34.6	
Hawaii								[2] 52.4	59.0		52.0	
Idaho	57.3		58.1		65.0		63.6		66.9		65.1	
Illinois		66.0		74.0		70.8		74.2		73.2		68.2
Indiana		63.8		73.6		71.6		76.5		73.6		69.2
Iowa	37.5	57.6	50.0	72.9	51.5	72.3	49.7	74.1	49.5	71.3	54.9	68.9
Kansas	47.1	58.7	49.8	67.0	49.5	67.6	58.3	70.2	49.7	64.0	50.1	62.9
Kentucky			33.5	[3]	45.8	54.2	45.2		47.2		43.7	
Louisiana										49.8		50.1
Maine	31.9	37.4	43.7	45.6	43.8	55.9	49.5	72.7	50.6		56.3	
Maryland	35.0		42.2		44.2		43.9		42.0		44.2	
Massachusetts	52.8	65.0	59.6	73.2	57.9	75.0	59.8	74.8	65.1	72.0	62.1	
Michigan	42.1	53.0	45.7	67.2	50.2	66.4	49.7	72.1	60.0	67.7	51.5	
Minnesota	47.4	63.5	60.7	74.7	59.8	71.9	57.5	77.4	62.1		63.4	
Mississippi												[4] 34.7
Missouri		59.7		70.4		66.6		71.2		65.7		62.2
Montana		69.8		72.9		72.1		72.3		71.1		68.7
Nebraska	45.5	55.2	54.9	67.5	48.4	64.8	47.2	69.9	53.7	66.5	56.8	
Nevada	55.3		56.1	58.1			55.5		50.5		52.5	
New Hampshire	46.6	61.0	54.2	75.7	57.1	72.9	57.3	79.2	61.0	72.1	57.4	67.3
New Jersey						56.9			56.2		52.7	
New Mexico	48.7	64.4	47.9	63.9	49.0	61.6	49.5	62.2	48.4	62.2	50.2	59.7
New York	50.8		50.9		49.3		54.9		52.7		54.0	
North Carolina										51.0		52.9
North Dakota	(1)	62.1	50.1	72.6	52.7	66.6	56.5	78.7	65.7	73.0		67.8
Ohio	45.2	50.1	54.2	67.4	47.5	62.1	57.7		52.5		47.9	
Oklahoma	36.5		46.6		44.5		39.1		49.2		45.5	
Oregon	34.3		49.7		54.2	68.0	55.4		57.5		58.0	
Pennsylvania	46.5		50.1		53.0		56.8		61.6		56.9	
Rhode Island	53.5	61.1	55.2	75.4	62.4	73.8	64.0	75.3	63.1	71.7	60.5	68.4
South Carolina											31.4	
South Dakota	65.3	63.2	72.7	60.6	60.6	71.7	64.6	78.5	64.4	73.9	59.6	71.7
Tennessee											28.7	
Texas									28.0	43.2	23.5	46.0
Utah		74.3		79.2		75.8		79.2		78.4		75.9
Vermont	31.6	51.2	36.9	59.9	48.2	69.0	56.2	71.6	52.3	70.2	57.7	65.5
Virginia											[5] 20.9	
Washington		53.1		69.9		70.1		71.4		71.5		68.9
West Virginia		68.6		78.2		71.3	54.4	76.4		74.1		68.9
Wisconsin	50.0	58.9	50.5	71.7	51.8	66.9	50.4	72.8	53.1	71.3	48.6	68.4
Wyoming	49.4		54.2		61.9		61.8		59.3		65.0	

[1] Not available.
[2] 1959.
[3] Incomplete.
[4] 1967.
[5] 1965.

Source: COPE research department, Washington, D.C.

APPENDIX VII.

TURNOUT IN SELECTED LOCAL AND SPECIAL DISTRICT ELECTIONS, 1969

City	Type of election	Percentage of turnout
Akron, Ohio	2, 3	39.9
Buffalo, N.Y	1	55.7
Charlotte, N.C	1, 2	25.5
Cincinnati, Ohio	2	37.7
Cleveland, Ohio	1	53.2
Columbus, Ohio	2, 3, 4, 5, 6	53.2
Dallas, Texas	1, 2	9.1
Dayton, Ohio	1, 3, 7	27.1
Detroit, Mich	1, 2, 8, 9	58.6
Hartford, Conn	1	39.8
Los Angeles, Calif	1, 2, 5, 10, 11	48.8
Louisville, Ky	1	26.8
Minneapolis, Minn	1, 9, 12, 13, 14, 15, 16, 17.	48.5
New Haven, Conn	1, 8, 9, 12, 18, 19, 20, 21, 22, 23.	45.1

Footnote at end of table.

APPENDIX VII.—Continued

TURNOUT IN SELECTED LOCAL AND SPECIAL DISTRICT ELECTIONS, 1969—Continued

City	Type of election	Percentage of turnout
New York, N.Y	1	47.3
Omaha, Nebr	1, 2	35.4
Philadelphia, Pa	1, 10, 24, 25, 26	49.7
Pittsburgh, Pa	1, 2	56.9
Richmond, Va	6, 9, 19, 27	32.9
Rochester, N.Y	2, 11	47.1
San Diego, Calif	2, 5	26.6
Seattle, Wash	1, 2, 28	51.2
St. Louis, Mo	1, 12, 13	27.3
Syracuse, N.Y	1, 2, 11	47.9

Key:
1. Mayoral.
2. City council.
3. Municipal judge.
4. City auditor.
5. City attorney.

Key—Continued
6. Clerk of courts.
7. City commissioners.
8. City clerk.
9. City treasurer.
10. Controller.
11. Board of education.
12. Aldermen.
13. City comptroller.
14. Board of estimate and taxation.
15. Park commissioners.
16. Library board directors.
17. School directors.
18. Tax collector.
19. City sheriff.
20. Town clerk.
21. Registrar of vital statistics.
22. Selectman.
23. Constable.
24. District attorney.
25. Magistrates.
26. Inspectors of election.
27. Commissioner of revenue.
28. Corporation council.

Source: Rand McNally, Commercial Atlas and Marketing Guide, Washington, D.C., 1969; local election officials.

APPENDIX VIII

TURNOUT IN SELECTED DEMOCRATIC NATIONS, 1920-68

Year	Turnout
UNITED STATES	
1920	49.2
1924	48.9
1928	56.9
1932	56.9
1936	61.0
1940	62.5
1944	55.9
1948	53.0
1952	63.6
1956	60.6
1960	64.0
1964	61.8
1968	60.6
GREAT BRITAIN	
1922	71.3
1923	70.8
1924	76.6
1929	76.1
1931	76.3
1935	71.2
1945	72.7
1950	84.0
1951	82.5
1955	76.7
1959	78.8
1964	77.1
1966	75.9
CANADA	
1921	70.3
1925	68.7
1926	70.2
1930	76.1
1935	76.2
1940	70.9
1945	76.3
1949	74.8
1953	67.9
1957	75.0
1958	80.6
1962	80.1
1963	80.3
1965	75.9
1968	75.7

Source: Compiled by Prof. Walter Dean Burnham, Department of Political Science, Washington University, St. Louis, Mo

APPENDIX IX

A bill is now being written proposing that the day of the Presidential election be declared a national holiday.

APPENDIX X

A bill is now being written proposing a National Election Commission to effectuate the proposals contained in the Universal Voter Enrollment Plan.

NEED FOR ADDITIONS TO INTERSTATE HIGHWAY SYSTEM

Mr. CANNON. Mr. President, I am pleased to be a cosponsor, with the Senator from New Mexico (Mr. MONTOYA) and the Senator from West Virginia (Mr. RANDOLPH), of S. 3281, a bill to amend existing law so as to provide a way for making additions to the Interstate Highway System.

This system, which is rapidly nearing completion, will be a network of beautifully engineered roads extending over 42,500 miles. I believe this to be only a beginning, for the Interstate System, while representing less than 1 percent of the Nation's roadways, is carrying 20 percent of the traffic.

This indicates to me that we need another system, and soon, because the one nearing completion will be overcrowded before it is finished.

We have a highway, a coast-to-coast highway, U.S. 50, that runs through my State of Nevada which someday must be brought into the system.

This proposed new legislation will provide a way to start.

ADDRESS BY SENATOR MILLER BEFORE SERTOMA CLUB OF CEDAR RAPIDS, IOWA

Mr. HRUSKA. Mr. President, on Monday, December 15, the Sertoma Club of Cedar Rapids, Iowa, sponsored its police recognition banquet.

This type of event is becoming a civic activity in a great number of cities in the United States, and rightly so. The task of effective law enforcement is primarily a local responsibility; but it is not only for the police, the prosecutors, the judges, the probation officers, and other public officials.

It is a task in which all the citizenry must join and advocate. This truth was the foundation for the Sertoma banquet.

The distinguished and esteemed senior Senator from Iowa (Mr. MILLER) was chosen as speaker on that occasion.

Although Senator MILLER has many areas of interest and activity, none of us will take exception to the idea that he is among the foremost of those who realize the high priority of law enforcement and that he does something about it.

He is well aware, for example, of the great importance of public opinion and community support for law enforcement. Here is an excerpt from his very apt and well reasoned speech:

Above all, those who make the laws, cannot do their job without the support of public opinion. It helps, I know, when the voices of the critics are occasionally leavened with the approving comments of the usually silent majority. We like to think that what we are doing has their approval, and it is reassuring when they let us know it.

This is what we are all here for tonight—to break our silence and extend our warm and heartfelt salute to the brave men and women whose service we need, whose service we receive, and whose service we praise.

Mr. President, the remarks made by Senator MILLER are timely and well expressed. I ask unanimous consent that they be printed at the conclusion of my remarks.

Mr. President, I commend my friends in the Sertoma Club of Cedar Rapids, Iowa, for their recognition of their police, as well as for their choice of Senator MILLER as the speaker on that occasion.

Also, I join the club and Senator MILLER in the words of praise and pledge of further support of the loyal and dedicated police forces in their community.

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

A THANK YOU TO OUR LAW ENFORCEMENT OFFICERS

(By JACK MILLER, U.S. Senator from Iowa)

As a legislator—first at the state level and then at the federal level—who has long been concerned with what our Constitution refers to as "domestic tranquillity," I was very gratified to have been invited to address this police recognition banquet of the Sertoma Club.

Never in our country's history has the law enforcement officer's job of providing domestic tranquillity been so difficult—and so little understood and appreciated.

Never before has the law enforcement officer been called on to do so much while, at the same time, being subject to so much criticism—most of it undeserved.

You have to be almost a lawyer, a medical practitioner, a psychologist, a social worker, a human relations expert, a marriage counselor, and a youth advisor to carry out your duties of public servant and protector of life, liberty and property.

As a former Des Moines police officer said last month, you must have the "patience of a saint, the wisdom of a prophet, and the infallibility of a computer."

It is a lot to demand of any human being.

Because so much is demanded of you, it appears that the blame for any breakdown in domestic tranquillity is laid at your door, although the blame properly belongs elsewhere.

This is unfortunate, because never has there been a time when all-out public support of our peace officers has been so deeply needed.

The serious erosion in morality now taking place in our country poses a clear and present danger to our security as a nation. Peace officers can hardly be blamed for this.

But some so-called, self-proclaimed intellectuals must share the blame—

Those who are speaking out in favor of free love and the dissolution of the sanctity of marriage.

Those who are condoning and dignifying homosexuality.

Those who are defending literature and films—in the name of "free speech," of course—which flagrantly violate the sensibilities of our communities.

Those who advocate destruction of our system of education, indeed, our system of government.

Those who advocate laws that favor the rights of the criminal over the rights of his victims.

Is it any wonder that the statistics on youth in jail, in reformatories, on probation, and in other serious trouble are higher than ever before in our history?

Is it any wonder that illegitimate births, broken marriages, sex deviation, dope addiction, and serious crimes are on the upswing?

Look at these statistics. Then let the people—not a noisy minority—decide whether even greater support must be provided our law enforcement officers.

Last year, more than 130,000 teen-age girls gave birth to illegitimate children.

One boy in every six will be arrested before reaching 18 years of age.

Every seven seconds a major crime will be committed in this nation.

Every 56 minutes an innocent man, woman or child will be murdered.

Every three minutes someone will become the victim of a vicious assault.

Every 31 minutes a woman will be raped.

Close to 4.5 million serious crimes were reported in the United States last year—an increase of 17 percent over the year before.

And yet, with this record, there are those who are condoning the acts of criminality, who are urging that a law should be broken if a particular individual disapproves of it.

These so-called intellectuals, whether they realize it or not, are pushing for a return to the law of the jungle—a condition in which each person takes the law into his own hands. Another term for it is anarchy.

It is argued that moral law takes precedence over man-made law.

But I ask the question: Whose morals? Whose standards?

Not those of more than 188 million Americans who will not be arrested this year.

Not those of more than 115 million of our citizens who will continue to go to church and millions of others who worship God in their own ways.

Not the 75 million Americans who will pay more than $160 billion in income taxes.

Not the 50 million students who refuse to join in a riot or in attempts to destroy our

system of education and our system of government.

Not the nine million of our young people who will not burn their draft cards this year.

Not the four million teachers and professors who will not strike or participate in demonstrations.

What I am saying is that an overwhelming majority of our people—regardless of race, creed, color or economic status—are respectable and responsible citizens who deplore what is going on about them.

And I firmly believe that this majority will sooner or later—and I think sooner—refuse to remain silent while the small minority ruin our country.

This majority does not feel that we have to apologize to any other country for our shortcomings. They are aware of our shortcomings, and they are willing to observe the Golden Rule in doing something about them. But they do not believe we must destroy the tree to attack the diseased branch.

This majority is the bulwark of our nation, the people who have built, who have worked, who have sacrificed, and who have kept faith in America.

Those who have worked to bring about this Police Recognition Program are that kind of people.

They may criticize you on occasion. They may become disturbed when they hear of some abuse of authority. But without question, they are proud of you. And deeply grateful for what you are doing.

The director of the Federal Bureau of Investigation, J. Edgar Hoover, put his finger on one of the problems facing law enforcement officers today when he wrote in a recent FBI Law Enforcement Bulletin:

"Unfortunately, in the criminal realm within which he must work, the law enforcement officer is the only one 'playing by the rules.' This places him at a definite disadvantage. In complying with all the procedural safeguards established for criminals, an officer must often subordinate his personal safety, his own rights, and the rights of society to insure that he does not commit some error which might later result in the release of the guilty. Criminals are usually well aware of their legal rights and take full advantage of them.

"Many critics of law enforcement today substitute paper theories for grim realities. When they advocate more restraints on arresting officers, they do so apparently on the premise that police are dealing with only law-abiding, cooperative citizens who respect the law and those charged with enforcing it. While a big percentage of police contacts are with the responsible members of society, increasing assaults against and killing of law enforcement officers are indicative of the open contempt numerous violators have for police and authority of any kind."

He went on to point out:

"The trend today, even though unintentional, is to negate the enforcement of the laws to insure that the criminal is protected. We are asking our officers to operate under an honor system in dealing with an element of our society which has no honor. Certainly, arresting officers cannot be permitted to resort to illegal tactics themselves, but they must be allowed to perform their duty with confidence and with the assurance that they have the support of the public, the government on all levels, and the courts. The powers of arrest must be as clear and positive as possible."

I would suggest that if the citizens of each community would fully back up their police departments whenever they should be backed up—instead of criticizing them on the few occasions when they are at fault and forgetting about them on all the other occasions—our streets would be safer.

It is a hopeful development that our citizens and legislators are acquiring a heightened sense of the dangers facing us from the increasing permissiveness and unrest in our society.

Genuine alarm has resulted in leaders from the top down demanding that something must be done.

Although I do not agree with all its contents, I was encouraged by the tone of the report recently issued by the National Commission on the Causes and Prevention of Violence: "Violent Crime: Homicide, Assault, Rape and Robbery."

The report called for a collective effort on the part of all, both private and public sectors, to stop the incidence of crime:

"Public and private action," it said, "must guarantee safety, security and justice for every citizen . . . without sacrificing the quality of life and other values of free society. If the nation is not in a position to launch a full-scale war on domestic ills, especially urban ills, at this moment, because of the difficulty of freeing ourselves quickly from other obligations, we should now legally make the essential commitments and then carry them out as quickly as funds can be obtained."

These are prudent and informed views. If they become the inspiration for action, then not only will something be done, it will be done well. However, we should not lose sight of what a former president of the American Bar Association, Lewis F. Powell, said a few years ago:

"America needs a genuine revival of respect for law and orderly processes, a reawakening of individual responsibility, a new impatience with those who violate and circumvent laws, and a determined insistence that laws be enforced, courts respected, and the process followed."

Implicit in his remarks, of course, is that the laws and the legislators who make them merit respect, and that the courts and the judges who serve on them also merit respect. In other words, among reasonable people, respect is a two-way street. In the case of the anarchist, the criminal, the destroyer—"respect" is not in his vocabulary.

One thing I wish to emphasize is that the problem of crime cannot be separated from ethics and morality. I look on this as a truism, but I cannot escape the impression that crime—that is, those acts which are against the law—is quite often treated in contemporary literature as a phenomenon quite apart from any questionable behavior on the part of those of our citizens who, through cleverness or luck, manage to "stay clean."

Former U.S. Supreme Court Justice Charles E. Whittaker, addressing a University of Kansas convocation, placed his finger on the essential points when he pleaded "for a return to simple honesty, responsibility and forthrightness in our public speakings and writings, that they may honestly inform and not misinform the people, and for a return to an orderly society by requiring respect for and obedience to our laws by the prompt, impartial, even-handed, certain and substantial punishment of all persons whose willful conduct violates these laws, and that we do so promptly, and," he continued, "I would hope, before mass crime gets, as it surely can, so far out of hand as to go beyond the curbing capacities of our peace-keeping agencies and authorities."

Implicitly, Justice Whittaker was stressing the necessity for placing the problem of crime within the more general problem of a breakdown in ethics and morality that is far more widespread than crime statistics. Indeed, the evidence shows that crime in the past several years has taken on a new dimension. Aside from the fact that it has been increasing at a far faster rate than the rate of our population growth, it reveals a moral sickness which deeply disturbs *many* religious, education, political, and social leaders.

This new dimension—and again I mention some familiar ground—is reflected in the increasing flood of pornographic literature which saps the moral fiber of many of our youth; in a diminishing respect for laws whose constitutionality has been tested; in the widespread feeling of law enforcement officials that they are being hamstrung by court decisions which seem too much concerned with the rights of criminals and too little concerned with the rights of law-abiding citizens.

The appearance of the "spontaneous criminal," the growth in the number of young people who commit a crime for the "thrill" of it, the increase in the number of those who seem totally committed to violence as a way of life—without any redeeming streak of common decency (the Sharon Tate murders, for example)—these demonstrate the depth of moral depravity which challenges our nation.

Our citizens—and this includes our law enforcement officers—have reason to be afraid. When men commit outrages for no other reason than so-called "kicks," when captured offenders show a complete lack of awareness that they have done anything wrong—and again I cite those who have been charged in connection with the Sharon Tate murders, when men demonstrate their total alienation from their brothers—with an entire disdain for human responsibilities and incapacity for any feeling or sympathy for other people, when the quickest way to promotion in a so-called organization is to shoot a policeman, burn down a building, or destroy a school, when these things happen, and with increasing frequency, then society should be afraid. And society had better get firm!

It is a sorry state of affairs when those who contaminate many of our universities and colleges with the virus of anarchy and revolution are referred to as "leaders."

Do they think they know something we don't know—that the family, the local community, and the church do not play a determining role in our society, a society dedicated to providing mutual aid, education, recreation and the best opportunity for a decent life to be found anywhere in the world?

Some of them may think so. Most of them couldn't care less. Their minds are made up. The "establishment" (which means the majority because you have to have a majority to be, or certainly remain, an "establishment")—this must go. And these self-proclaimed intellectuals and revolutionaries will be the new establishment.

It is difficult, I know, for an adult, even a parent, to fully appreciate the mental turmoil of many of our young people. However, some of our adults—and I include among them some of our political, religious, academic, civic, and professional leaders—some of them must bear a share of the blame. Their self-proclaimed "intellectualism" shows up in their writings, their lectures, and their speeches, and it is rubbing off on the young, searching, trusting, and often gullible mind. It deals with glittering generalities and cliches without any real meaning, because these are seldom translated into specifics. It raises false hopes of instant change, instant educational excellence, instant prosperity, instant peace, and instant social justice. Because it lacks realism, it inevitably leads to disappointments and frustration.

"We can't afford not to afford" to do something. "We have the resources" to do something. Well, maybe we can; maybe we can't. Perhaps there are resources; perhaps there aren't. Only by dealing in specifics, working out a practical order of priorities, can a real judgment be made.

This type of "intellectualism" is very adept at begging the question by making use of such labels as "liberal", "conservative", "moderate", "McCarthyism", "stone age thinking", "leftist", "radical", "martyr",

"militarism", "the establishment", "civil rights leader", "free speech", "government censorship", and the like. It often speaks of "change" as though there should be change for the sake of change. Everyone knows the world and the nation is changing. What is important is what kind of change. If it is for the better, that's fine. If it is for the worse, then we had better resist change. When professors and politicians talk of "change", they ought to be specific about what they mean, and then the people can tell whether it is practical, sensible, and worth working for.

Of one thing we had better be sure, and that is there are certain things that don't change and shouldn't change. Truth, morality, the Golden Rule, the sanctity of marriage, family responsibility, community responsibility—these are unchanging; and there should never be a "generation gap" as to them.

We have been hearing a lot about "rights" during the past few years—especially rights guaranteed by the Constitution. However, the Bill of Rights is also a bill of implied responsibilities. The right to vote carries with it a responsibility to do one's homework so that he or she will know whom and what he is voting for. The right to an education carries with it a responsibility to work hard and do the best one can with the opportunity available. We do not have equality of opportunity for education yet, but we are working on it. And one should remember that Abraham Lincoln did not have an equal opportunity for education, but made the most of the opportunity he did have and became our President. The right to an equal opportunity for employment carries with it a responsibility to be loyal to one's employer and his fellow-employees, to work hard and to earn advancement on the basis of merit. The right to be an American citizen carries with it a responsibility to pay one's taxes, levied through our processes of representative government, to serve one's country in time of war according to laws passed through our processes of representative government, and to be loyal to his country. The right of free speech carries with it a correlative responsibility to speak the truth, to state all of the facts and not just those that serve one's purpose, and to avoid slandering or libeling one's neighbor. Indeed, if these correlative responsibilities are not observed, rights will not mean very much.

The idea of "civil disobedience" in our country seems to have had its origin in the success of the late Mahatma Ghandi in India. But Ghandi was living under an entirely different system of government than we are. In those days, under British colonial rule, the people had no voice in their government. In our country, they do. If a majority of the people don't like what's going on, they can make changes. If a minority of the people don't like what's going on, they have federal and state constitutions and courts to protect them; and beyond that, they must be content to try to persuade the majority. If they can't do it, then the majority has its right to have the law enforced; and that right must be maintained—otherwise representative government will be replaced by tyranny.

Our law enforcement officers have to protect the rights of both the majority and the minority, and it is a deeply important and difficult form of public service. As a legislator, I have some appreciation of the difficulties, because we have a similar responsibility to the majority and the minority. The laws we pass must be constitutional, and beyond that we must strive for an environment which will be calculated to bring all of our people closer together.

Above all, those who make the laws and those who enforce them, cannot do their job without the support of public opinion. It helps, I know, when the voices of the critics are occasionally leavened with the approving comments of the usually silent majority. We like to think that what we are doing has their approval, and it is reassuring when they let us know it.

This is what we are all here for tonight—to break our silence and extend our warm and heartfelt salute to the brave men and women whose service we need, whose service we receive, and whose service we praise.

NEW SANTA BARBARA OIL SPILL

Mr. CRANSTON. Mr. President, the tragic and disastrous oil pollution of the California coastline continues. A new slick of oil washed ashore on the beaches between Carpinteria and Ventura this weekend.

While it is not certain where the oil came from, it appears possible there has been an increase of oil seepage from the ruptured ocean floor beneath platform A which has been continuously leaking since the blowout in the Santa Barbara Channel almost 11 months ago.

Mr. President, the continued despoliation of the Santa Barbara beaches is not just a California problem, it is a national problem. I urge all Senators to give this continuing environmental pollution, which is a direct result of Federal policy, their thoughtful consideration.

Mr. President, I ask unanimous consent that this morning's Los Angeles Times article on this new oil slick be printed in the RECORD.

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

NEW OIL SLICK HITS 10 MILES OF COAST—BIRDS REPORTED STRICKEN NEAR SANTA BARBARA

(By Robert Kistler)

A new wave of crude oil washed ashore south of Santa Barbara Sunday, depositing pools of smelly black petroleum and hundreds of helpless, oil-smeared seabirds over a 10-mile stretch of Ventura County coastline.

A Union Oil Co. spokesman said it was possible that the new oil slick resulted from an increased seepage of raw oil beneath the company's controversial drilling platform A, 5½ miles out from Santa Barbara.

That platform was the site last January and February of massive crude oil pollution of Santa Barbara area beaches.

While it has been leaking steadily since then—an estimated 10 to 15 barrels a day—a pipeline crack last week probably caused a "significant increase" in spillage, the company said.

AREA OF CONTAMINATION

Sunday's contamination reportedly stretched from the Santa Barbara-Ventura County Line (just south of Carpinteria) to a point about five miles north of Ventura, and prompted:

Reports that several seabirds had already been found dead and that hundreds of others were seen floating near the beaches, preening oil from their feathers and flailing helplessly.

Another request by a conservation group, Get Oil Out (GOO), that President Nixon halt all offshore drilling operations in Santa Barbara Channel.

A statement by Union Oil Co. that the recent increase in oil seepage near Platform A (discovered Saturday, but of possibly days-earlier origin) had apparently subsided.

The new clash between conservationists and the oil company began last week when an 8-inch-diameter undersea pipeline sprang a leak beneath Platform A.

After company wells beneath the platform were shut down Tuesday so workmen could replace the leaking pipe, increased undersea pressure forced much more oil out of ocean floor fissures, a Union Oil spokesman said Sunday.

However, after the pipe leak was repaired and the wells reopened, the pressure apparently went back to "normal," and Sunday the leak was said by Union Oil workers to be back to its usual rate of seepage.

It was impossible to tell, company spokesmen said, just how much more oil rose to the surface after Tuesday's shutdown operations were initiated. Officials said poor visibility in the channel made accurate estimates impossible.

In any event, what residents claim is a new oil slick began coming ashore Saturday, forcing the evacuation of water enthusiasts, particularly at the popular Rincon Beach surfing area.

Saturday's pollution, beginning about four miles south of Carpinteria, steadily inched down the coast and, by Sunday morning, the oil had reached almost to Ventura.

Yvon Chouinard, 31-year-old mountain climbing equipment manufacturer, is one of those owning property in the area. From his back porch—five miles north of Ventura—he watched the ooze's progress.

"I first saw a couple of birds in trouble Saturday evening," he said. "They were western grebes and had been covered with oil.

"By Sunday, about 8 a.m. when I got up, those two birds were dead . . . the waves had become black and there were large pools of oil standing on the beach."

Throughout Sunday, Chouinard said, the number of afflicted birds grew. By sundown, through field glasses, he estimated there were about 200 less than 100 yards off shore."

Chouinard's Sunday observations were mirrored by a report from Mrs. T. Preston Webster, president of the Santa Barbara Audubon Society, who inspected the beaches just north of Chouinard's house Sunday.

"There were only two dead birds—a common murre and a loon—that we found," she said, "but the birdkill is just beginning."

Former State Senator Alvin C. Weingand, board chairman of Get Oil Out, said the renewed problems were "just another indication that, no matter what the oil companies say, they can't guarantee that current drilling operations are fail-safe."

Immediately upon learning of Saturday's increased seepage, Weingand sent a telegram to Mr. Nixon, urging that "he become personally involved in our problems here and that he order all drilling operations in Santa Barbara Channel shut down."

CONGRATULATIONS FROM NATIONAL ASSEMBLY OF PORTUGAL UPON TWO LUNAR LANDINGS

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the National Assembly of Portugal, dated December 11, 1969, offering congratulations to the Congress of the United States for the outstanding success of the two lunar landings by our heroic astronauts.

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

ASSEMBLEIA NACIONAL OFÍCIO No. 32/X,
December 11, 1969.

The SPEAKER,
The Senate of the United States.

SIR: It is my most pleasant duty to inform you that the National Assembly of Portugal, at the opening of its new session, unanimously adopted a motion of congratulations to the Congress of the United States for the outstanding success of your heroic astronauts' two lunar landings, with the highest appreciation for the extraordinary scientific research and efficient organization which led to such achievements.

Furthermore, it was stressed that, even

though these events may be regarded as triumphs of the power of man's mind, we also feel glad that they should have been accomplished by a great country nurtured in the principles of Western civilization.

On behalf of this Assembly and in my own name, I would ask you to accept the expression of my highest consideration.

T. CURARAL NETTO,
The President, National Assembly.

SPECIAL ARROGANCE OF SENATORIAL DOVES

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled, "Senatorial Doves Show a Special Arrogance," written by Crosby S. Noyes, and published in the Washington Star of December 20, 1969.

In the past, I have not always agreed with Mr. Noyes' views on many public issues, and I dare say we will disagree in the future. But, I have always recognized him as a competent and thorough reporter, and a commentator of great integrity. I think this article is a particularly penetrating one and one deserving of wide circulation.

It seems to me that very many of the critics of the American presence in South Vietnam fail to carry their arguments to their logical conclusions. How can we, in the name of self-determination, seek to impose "reforms" on the Saigon Government, with implied threat that failure to "reform" along the lines we suggest would bring retaliation from the U.S. Government? Their arguments are frequently contradictory: they contend on one hand that the United States has made South Vietnam into a puppet state which jumps to do our bidding. On the other hand, they also complain that South Vietnam should not be permitted to influence American policy or have an equal voice in the peace settlement, and that the Thieu government is too independent. Mr. President, they cannot have it both ways: putting the Thieu government down as too independent and too much of a puppet at the same time.

For my part, I think a show of independence by the Thieu government is highly desirable. That, after all, is what the war is all about—we are fighting to keep South Vietnam free and independent. We do not want a vassal state there—certainly not a vassal state run by Hanoi, and not a vassal state of the United States either.

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

SENATORIAL DOVES SHOW A SPECIAL ARROGANCE

(By Crosby S. Noyes)

There is a special arrogance in the persistent demands of some senatorial doves that the United States should lower the boom on the government in Saigon.

The presumption of these gentlemen, apparently, is exactly the same as the presumption of the leaders in Hanoi: That the United States is in South Vietnam in the role of an imperial power, that the government in Saigon is indeed nothing more than the puppet of the United States and that if it fails to perform as we would like it to, it can be dismissed at our pleasure.

In its most extreme form, furthermore, the rationale for replacing the Saigon regime at this point is close to the reasoning of the Communists. The failure of the Thieu government is that it is too "rigid" in its approach to peace negotiations. It should therefore be superseded by a "broad coalition" which, presumably, would be more amenable to reaching a political compromise which the leaders in Hanoi could accept.

It is never spelled out just how we should go about disposing of the present government or by what process its successor should be selected. The implication seems to be that since the government depends entirely on American support for its survival, any threat to withdraw this support would result in an immediate collapse.

Quite apart from the morality of such tactics, the United States, in fact, has never had this kind of leverage in Saigon. Since the days of Ngo Dinh Diem, the successive regimes have been remarkably resistant to pressure from Washington. Today, with the departure of American troops under way, the Thieu government is not likely to accept a suggestion to step aside.

Nor is the suggestion likely to be made by any responsible member of the administration in Washington.

Whatever defects the Thieu regime may have, it is rated as by far the most effective government that has existed in Saigon since 1963. Any return to the political chaos that followed the murder of Diem, with six governments, both military and civilian, holding power over a period of 19 months, would be a sure prescription for disaster. Despite the complaints of the critics, firm support for the Thieu government is the cornerstone of President Nixon's Vietnam policy.

There is much talk, to be sure, of trying to induce Thieu to "broaden the base" of his government in order to attract more popular support in a future political contest with the South Vietnamese Communists. But even this presents certain dangers and difficulties.

In theory, the base-broadening could be done in two ways. Thieu could try to win the support of a number of disaffected groups by taking the leaders of these groups into his government. It has been suggested they might include such supposedly popular figures as Gen. Duong Van Minh, leaders of the dissident Buddhists and other religious sects.

Another way that Thieu might increase his popular support is by taking direct action to liberalize his regime. Such steps, it is said, could include a vigorous land reform program, an end to press censorship and the release of political prisoners.

Some effort, in fact, has been made in both directions with no great success. So far the dissident political figures have shown little enthusiasm for joining together in any coherent coalition either in support or in opposition to the government. The fragmentation that is characteristic of Vietnamese politics is still very much the order of the day.

Similarly, in the course of the past year, Thieu has pressed hard for a radical land reform law that would result in the immediate distribution of some 3.2 million acres of land among about 800,000 landless tenant farmers. The irony for those who complain of a lack of democratic process in Vietnam is that this much-needed measure has remained firmly bottled up in Saigon's cantankerous elected legislature.

This is not to say, however, that in other areas Thieu is not succeeding in extending his popular support. Indeed, he is doing it where it matters most—not among the political cliques in Saigon, but in the thousands of villages and hamlets throughout the country.

The rapid extension of Saigon's control in the countryside, the reopening of roads and railways, the return of 400,000 refugees to their villages, the rearming of village self-defense units, the recent elections of village officials—all these things have resulted in the creation of a new political force in Vietnam.

In the end, it is likely that this new force will do more to strengthen Thieu's position than any political maneuvering that he might attempt. Instead of trying to undermine and sabotage this process, the United States has a most vital interest in encouraging it.

THE MEANING OF PEACE

Mr. GRIFFIN. Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from Colorado (Mr. ALLOTT) on the subject "Peace." I also ask unanimous consent that an article relating to his statement be printed in the RECORD.

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

STATEMENT BY SENATOR ALLOTT

"Peace on Earth" is the universal theme of the Christmas season. The word "Peace," of course, has many applications. There is the kind of peace which results from the good intentions and goodwill of men and nations. There is the kind of peace which is simply an absence of war—a toleration. There is the kind of peace which, being false in nature, amounts merely to a temporary time before aggression is waged anew.

The young author of an article published in the Denver Post of December 13 has captured, in my judgment, the true meaning and spirit of the genuine peace we all seek to focus more clearly at this time of year.

The writer is a senior at Aurora Hinkley High School in Aurora, Colorado. Her brother died October 28 in Viet Nam, and was buried a day before his 20th birthday. The article she wrote is a tribute to her brother.

In it, Miss Patti G. Wright shows not hatred, not anger, not rebellion, but charity, compassion, and true peace with herself and her fellow citizens.

Miss Wright's family has made the ultimate sacrifice. Yet in the true spirit of Christmas, this young woman brings the terrible war in Vietnam into focus for all of us. If she is able to speak so clearly, surely those who have sacrificed nothing cannot help but at least listen.

What a blessing to have young people of the caliber of Patti Wright speak up at this hour.

[From the Denver Post, Dec. 13, 1969]

VOICE OF YOUTH—"HE FOUGHT FOR PEACE AND NOW HE HAS IT"

(By Patti G. Wright)

(The writer, a senior at Aurora Hinkley High School, prepared the following article "as a tribute to my brother who died Oct. 28th in Vietnam while a pilot of a helicopter gunship that was shot down by hostile fire. He was buried one day before his 20th birthday.")

Resounding over the nation, what was once muted whispering has now become an ever-increasing thunder of a million voices. These voices are trumpeting a challenge to those people who doubt the cause and freedom of this nation—our America.

Today's society is confronted by a multitude of conflicts, both internal and external. These conflicts hang heavy over the heads of the American people, threatening their very peace and security. Among these conflicts is one which hangs heaviest upon America's

mind and heart—the Vietnam war. This war has turned complacency of our nation into a raging hell of dissension and disorder.

For the first time in our country's history, the American people are not totally supporting their country's involvement in a war. Dissenters and rioters have stormed American streets for the last five years, screaming protest against the Vietnam war—as being immoral, unconstitutional and totally unsupported.

These individuals cry out in a rage against a war "with no cause." They dictate that America has no right to involve herself in the conflicts of another country. In accordance with this belief, these people state that the men America is sending to Vietnam, and those who have died there, have no idea what they are fighting for, or what they died for.

However, there exists another faction in this conflict—the "silent majority." Up to now, these people have remained fairly subdued and nonresponsive to the challenges thrown to them by the dissenting minority. This attitude has abruptly changed. Now the "silent majority" is speaking out loudly against those who question the cause and freedom of our democracy.

The United States has always been a nation where freedom and justice have been the supreme goals. Thus far, these goals have not been fully realized. Yet, mankind must always have a goal to strive for, or it never improves. This challenge is what America offers to anyone brave enough to reach for that goal. In involving herself in the Vietnam war, our nation is offering a challenge of freedom and justice to a people who have known only fear and oppression.

The men who have fought in Vietnam do have a cause, and reason for fighting. To these soldiers, their fighting and dying is not futile. They know they are in this war to protect not only freedom and justice against tyranny and oppression; but they are fighting for us. As in the last words of a young soldier prior to his death.

"You know, I've been here five months, and it seems a long, long time away from home. This will be the first Christmas I haven't been home, and it'll be hard. But I know I'm fighting for my country; and more important, I'm fighting for the ones I love. That's all that matters."

To the "silent majority," America still represents freedom and the right to live your own life. No nation is ever absolutely justified in war, but when a force such as communism threatens the security and peace of our country, then war is inevitable. When the leaders of our nation must decide on war tactics to obtain peace, then it is each individual American's duty and obligation to support that decision. Only by giving support to our men in Vietnam can the United States keep herself from being swallowed up in the sweltering inferno of communism.

"He fought for peace . . . and now he has it."

THE LEGISLATIVE RECORD

Mr. FULBRIGHT. Mr. President, I believe that Senators should be proud of the record they have made during the past weeks, especially during last week.

After all these years, the Senate is assuming its constitutional responsibility with regard to the making of war abroad and also in controlling the profligate expenditure of public money on extravagant and unnecessary weapons for foreign clients.

I ask unanimous consent to have printed in the RECORD an excellent editorial entitled "No More Vietnams," published in the New York Times of December 21, 1969, and also an article entitled "The Senate Takes a Stand," written by Tom Wicker, and published in the same edition of the New York Times.

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

NO MORE VIETNAMS

A determination to avoid "another Vietnam" is the principal impulse behind the amendment to the Defense Appropriations Act barring the use of its funds to introduce American ground combat troops into Laos or Thailand. The consensus in Washington and the country on this issue was indicated by the 73-to-17 vote for the Senate rider and, even more, by the alacrity with which the White House and its supporters on Capitol Hill joined to preface the action with a statement that it was "in line with the expressed intention of the President."

The Nixon Administration would like the amendment to be taken as a show of bipartisan unity behind the President's policy in Southeast Asia. But its legislative history—especially its origin among liberal Senators of both parties who have doubts about the clandestine American military operations in Laos and other aspects of Asian policy—suggests that it represents a "reassertion of Congressional prerogatives." That is the view, among others, of Senator Frank Church of Idaho, the amendment's chief author.

For the first time teeth have been put in the National Commitments Resolution adopted by the Senate last spring. That resolution expressed the Senate's view that national commitments to use or promise the use of American armed forces abroad should be undertaken only with the prior consent of Congress.

A constitutional issue of grave importance is involved. While Congress declares war and approves treaties, successive Chief Executives have progressively expanded the power of the President, as Commander-in-Chief, to make the nation's foreign and defense policies and to involve the country in undeclared wars. The semi-surreptitious manner in which President Johnson took the United States into a large-scale land war in Vietnam has led Congress to re-examine its own powers and responsibilities.

Congress can intervene in policy determination through control of the purse strings, but that is a more drastic remedy than most legislators favor once military action is initiated. Last week's amendment to the Defense Appropriations Act was carefully drafted to avoid impeding American-supported military operations already under way in Laos and Thailand while, at the same time, warning against their expansion into American ground combat without Congressional consultation.

The paucity of past consultation lies at the heart of the matter. It stemmed in part from the breakdown in relations between President Johnson and the chairman of the Foreign Relations Committee, Senator Fulbright. In Laos there has been an additional factor. American military intervention since the Kennedy Administration has taken various forms of disguise to avoid open violation of the Geneva accords—which would embarras the neutralist government of Laos, despite prior violations by the Communists.

American bombing of the Ho Chi Minh supply trails through Laos linking North Vietnam to the South has been common knowledge since 1964. But few members of Congress have been aware of the extent of C.I.A. involvement with the clandestine army of Meo hill tribesmen, who have stepped up their operations considerably this year. American bombing in support of Meo and other Laotian Army operations reportedly has increased tenfold or more in the last six months. News reports of increased activity on the Laotian front and inquiries by the Symington subcommittee into American commitments in Asia generally have combined to stir concern that Laos might be turning into another Vietnam.

The secret session of the Senate on Laos last week has helped to allay this concern, in part through the Administration's renewed pledges not to involve American ground combat forces. The worst pitfalls of Vietnam—over Americanization and overmilitarization of the conflict—have apparently been avoided so far in Laos.

Both sides know there can be no solution in Laos until the Vietnam war is settled. The Communists and the neutralist government in Vientiane engage in military and political skirmishing, but neither has attempted to push the other to the wall. The Communists have stayed out of the Mekong Valley for the most part. The Royal Laotian Army and the Meo forces have made no attempt to interdict the Ho Chi Minh trails on the ground.

But as long as the war in Vietnam drags on, escalation of the Laotian conflict will remain a possibility. The prohibition against American ground combat forces without Congressional consent should help stave off that possibility. More important, it establishes a valuable precedent in restoring a form of Congressional oversight that is the country's best guarantee against another Vietnam.

IN THE NATION: THE SENATE TAKES A STAND

(By Tom Wicker)

WASHINGTON.—The clandestine warfare being waged in Laos will not be stopped by the Senate's prohibition on sending American ground combat troops to that country and Thailand. This remarkable rider to the defense appropriations bill might nevertheless have profound effect upon the development of American military-foreign policy in the seventies.

The Senate action—later accepted by the House—resulted directly from this year's establishment of a Foreign Relations subcommittee, under Stuart Symington of Missouri, to examine American commitments abroad. The subcommittee's investigations and its secret sessions with State Department and Pentagon officials enabled J. W. Fulbright, the Foreign Relations Committee chairman, to raise for the first time some really informed questions about American operations in Laos and Thailand.

STATE DEPARTMENT MEMO

When he put these questions to the Appropriations Committee in writing, its Defense subcommittee proved unable to answer them—although that body was charged with examining the Pentagon money bill. Therefore, the Nixon Administration had to supply the answers—which it did, in a thirty-page memorandum read to the whole Senate in an unusual secret session. The memo was an approximate summary of what the Symington subcommittee had already learned about Laos and Thailand in hearings which have not yet been published (due to State Department insistence on heavy censorship).

This had several immediate effects. It made the whole Senate aware of what Symington's group was learning about the extent of American military activities in those two countries, which is considerable; since the disputed hearings may not be published for quite a while. Senators busy on other matters would otherwise have known no more than they usually do—which is not much—about defense appropriations and the activities they support.

CREEPING ENTRY

Once Senators did know officially that American air units were already bombing and strafing in Laos, in support of armies trained, supplied and to some extent led by Americans, the similarity to the creeping American entry into the larger Vietnam war became obvious.

It was then easier to persuade the Senate to take hold of what a Senate strategist

called "the one really good handle you've got"—appropriations—in trying to restrain or guide executive control of foreign policy and the armed forces.

The net effect of the rider is that the Nixon Administration now could hardly escalate present American activities in Laos into a Vietnam-model ground war without coming first to Congress for approval. Perhaps more important, because no real war is as yet under way in Thailand, a secret contingency plan for American military aid to that country could not now be put into effect without specific Congressional approval.

The Laos-Thailand rider, moreover, has to be read in conjunction with another action of the Senate—the so-called "commitments resolution," passed earlier this year, in which the Senators expressed the view that the President could not make a "national commitment" to another nation without specific Congressional approval. This was another effort—but one without much practical effect—to limit a President's power to commit American military forces, by executive agreement, to act in various contingencies around the world—to "instantly repel," for instance, any attack on the Philippines from any source, a repeated pledge that appears to override Congress's constitutional war-making power.

REIN ON PRESIDENT

These two acts together constitute a substantial Congressional notice to Mr. Nixon and Presidents to come that neither he nor they will be quite so free to dispose of American military power without legislative check as Presidents have been in the postwar era. And that the Laos-Thailand rider added to an appropriations bill was a pointed reminder of the ultimate Congressional power of the purse—seldom used, recently, except to permit rather than restrain military adventures.

Mr. Nixon obviously got the point—influenced, some Congressional observers believe, by the convincing 78 to 11 vote for the Laos-Thailand rider. Even while State Department and Pentagon lobbyists were preparing to oppose the rider in Senate-House conference, the White House announced publicly that the action was "in line" with its policy.

ANOTHER BENEFIT

One further benefit might flow from all this. Since the Senate now has been told what is happening in Laos (although its members will soon be confronted with security censorship of the secret session), the Symington subcommittee is likely to gain allies in its demand that it be allowed to publish a relatively uncensored transcript of its hearings on the Laotian war.

After all, other Senators may reason, the executive branch, the Senate, the Laotians, the Russians, the Chinese, and the North Vietnamese know what is going on in Laos. Why shouldn't the American taxpayer, who foots the bill for a large part of the action?

BILLS AFFECTING ALASKA TRADE

Mr. BELLMON. Mr. President, on December 19, 1969, the senior Senator from Alaska (Mr. STEVENS) introduced S. 3272 and S. 3273. These bills have generated a great deal of discussion, interest, and comment.

I ask unanimous consent that they be printed in the RECORD.

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

S. 3272

A bill to extend to shipping in the Alaska trade the construction differential and operating differential subsidies now provided to shipping in foreign commerce

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

TITLE I—DECLARATION OF POLICY

SEC. 101. Title 46 of the United States Code is amended by adding a new section thereto as follows:

"§ 1102. The noncontiguous State

"Because the policies expressed in this title are national policies designed to benefit all the United States, because the implementation of those policies work a hardship on Alaska which, because it is noncontiguous to any other State, is unusually dependent on oceangoing transportation, and because the cost of national policies should be borne equally by all the United States, it is declared to be the policy of the United States that Alaska should have available to it oceangoing transportation at the cost that would have been realized if it were not for those national policies."

TITLE II

SEC. 201. Title 46 of the United States Code is amended by inserting, following section 289b the following new section:

"§ 289c. Transportation of passengers and merchandise in vessels owned and operated by the State of Alaska between points in Alaska and the United States

"Notwithstanding the provisions of law of the United States restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from any port in the United States to another port of the United States, passengers and merchandise may be transported on vessels owned and operated by the State of Alaska between ports within Alaska or between ports in Alaska and ports in Canada or the United States until such time as such vessels are replaced by vessels constructed under the subsidy provided in chapter 27 of this title or until three years from the date of this Act, whichever shall occur later."

TITLE III

SEC. 301. (a) (1) The first sentence of subsection (a) of section 1151 of title 46 of the United States Code is amended by inserting following the words "United States" and before the period, the words "or in the Alaska trade".

(2) Subsection (a) of section 1151 of title 46 of the United States Code is amended by inserting at the end thereof a new sentence as follows: "Notwithstanding the provisions of the first sentence of this subsection, the State of Alaska, or any agency of political subdivision thereof, may make application to the Federal Maritime Board for a construction-differential subsidy to aid in the construction of a new vessel to be used in the Alaska trade. For purposes of this chapter and subchapters I and II the term 'Alaska trade' means the transportation of passengers and merchandise between points within the State of Alaska or between points in the State of Alaska and points in the several States of the United States, the Commonwealth of Puerto Rico, the Virgin Islands and Guam."

(b) Section 1156 of title 46 of the United States Code is amended by inserting following the words "foreign trade" and before the comma the words "or in the Alaska trade" and by inserting following the words "during the preceding year" and before the period, a colon followed by the words "*Provided*, That for purposes of this sentence the term 'domestic trade' shall not include any trade which is properly a part of the Alaska trade".

SEC. 302. (a) Subchapter VI of title 46 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 1184. Operating subsidy for ships in the Alaska trade

"(a) APPLICATION FOR SUBSIDY; CONDITIONS PRECEDENT TO GRANTING.

"Notwithstanding the provisions of section 1171(a), 1172 (a) and (b), 1173, 1174, 1175, 1176, the Federal Maritime Board is authorized and directed to consider the application of any citizen of the United States, or of the State of Alaska any agency or political subdivision thereof, for financial aid in the operation of a vessel or vessels, which are to be used in the Alaska trade. No such application shall be approved by the Board unless it determines that (1) the operation of such vessel or vessels is required to carry out the purposes of section 1102 of this title, (2) the applicant owns, or can and will build or purchase, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate and maintain the service, route, or line, in such manner as may be necessary to carry out the purposes of section 1102 of this title, and (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the vessel or vessels as to carry out the purposes of section 1102 of this title.

"(b) BOARD AUTHORIZED TO CONTRACT.

"If the Federal Maritime Board approves an application made pursuant to subsection (a) of this section, it may enter into a contract with the applicant for the payment of an operating-differential subsidy determined under subsection (c) of this section for a period not exceeding twenty years, and subject to such reasonable terms and conditions as the Board shall require to effectuate the purposes of section 1102 of this title, including a performance bond with approved sureties, if such bond is required by the Board.

"(c) AMOUNT OF SUBSIDY.

"The Secretary shall determine annually the costs of operation, including the fair and reasonable cost of insurance, maintenance, repairs not compensated by insurance, wages and subsistence of officers and crews, and any other items of expenses he determines should be included in order to carry out the purposes of section 1102 of this title, of vessels in the coastwise trade of the United States and in the foreign commerce of the United States. He shall then calculate the operating-differential index by subtracting from one ratio of the operating costs for vessels in the foreign commerce to the operating costs for vessels in the coastwise trade. The amount of the operating-differential subsidy shall be the product of this index and the actual operating costs incurred by the applicant for the operations described in his application."

SEC. 303. (a) The table of contents of chapter 27 of title 46 is amended by including therein:

"1102. The noncontiguous States.

"1184. Operating subsidy for ships in the Alaska trade.

and by inserting the following words "1151. Subsidy authorized for vessels to be operated in foreign trade" and before the period the words "and in the Alaska trade".

(b) The title to section 1151 of title 46 of the United States Code is amended by adding after the words "foreign trade" and before the period the words "and in the Alaska trade".

S. 3273

A bill to exempt Alaskan trade from sections 289 and 883 of the sabotage laws

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

SECTION 1. Title 46, section 11, is amended by inserting after the phrase "with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef," the following: "and between the State of Alaska and the other States, between the State of Alaska and foreign countries, between the State of Alaska and the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef, and within the State of Alaska.".

SEC. 2. Title 46, section 289, is amended by inserting at the end thereof: *"Provided,* That this section shall not apply to the transportation of passengers between ports and places within the State of Alaska or between ports and places in the State of Alaska and ports and places in the United States.".

SEC. 3. Title 46, section 883, is amended by inserting at the end thereof: *"Provided further,* That this section shall not apply to the transportation of merchandise between points within the State of Alaska or between points in the State of Alaska and points in the United States, including the districts, territories, and possessions thereof embraced with the coastwise laws.".

DEPARTURES FROM BASIC IDEAS OF BROWN AGAINST BOARD OF EDUCATION

Mr. GURNEY. Mr. President, I ask unanimous consent to have printed in the RECORD a column written by Jenkins Lloyd Jones and published in the Washington Evening Star of December 20, 1969. The article is entitled "The Dangers of Good Intentions" and demonstrates how far afield some recent court decisions and decrees from the Department of Health, Education, and Welfare have taken us from the basic idea of Brown against Board of Education in 1954. As Mr. Jones points out, pupils are now being assigned to schools and bused around school districts solely on the basis of their race. More and more, the Department of Health, Education, and Welfare is seeking to enforce its peculiar notion of what constitutes a federally acceptable standard of integration by the threat of withholding Federal funds. In some cases, it goes beyond a threat and amounts to an actual denial of funds. This officious meddling by HEW, however well-intentioned, has been, in my judgment, a principal cause for the confusion and disorder we find in public schools throughout the land today. Mr. Jones ends his column with a particularly apt quotation from Louis Brandeis:

Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding.

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

[From the Washington Star, Dec. 20, 1969]

THE DANGERS OF GOOD INTENTIONS

(By Jenkin Lloyd Jones)

The end of the neighborhood school in America is proceeding apace as a result of a series of directives and ukases being issued by federal courts and the Department of Health, Education and Welfare.

These are not laws. They have not emanated from any elected legislative bodies. These are decrees, imposed upon the nation by men, many of whom have never been elected to anything, who are utterly confident that their ideas are best for the nation, but who are not disposed to submit these ideas to any public referendum.

Most interesting is the adoption by this group of the doctrine of interpretation as a substitute for law.

In the original desegregation case (Brown vs. Board of Education, 1954) the Supreme Court based its decision on the words from the 14th Amendment: "No state shall . . . deny to any person within its jurisdiction the equal protection of the law." On that theory it ordered that no child shall be directed to a specific school because of its race.

Today, as a result of subsequent court decisions and HEW orders, the same words of the same amendment are being cited as the reason why children can be directed to a specific school because of their race.

The principle of integration has gradually turned into a principle of forced racial mixing according to shifting formulae that not only have no substance in law but are in clear defiance of it.

As one of the dissenting 5th Circuit Court of Appeal judges said in U.S. vs. Jefferson County Board of Education, 1967:

"The freedom of the Negro child to attend any public school without regard to his race or color, first secured in the Brown cases, is again lost to him after a short life of less than 13 years."

And so it has been. In Natchez, Miss., recently HEW ordered neighborhood school districts swept away and new districts drawn that would provide a satisfactory racial mix. As a result, according to the Natchez school superintendent, Dr. D. G. McLaurin, seven schools now have more than a thousand vacant places while five others have 800 more students than they were built to accommodate. HEW has ordered one all-Negro school to close all-together, over the protests of most of its patrons.

U.S. District Court Judge Luther Bohannon has demanded a "long range" integration plan for Oklahoma City in which students would attend only "basic" classes in their neighborhood schools and then be bused away. This is, of course, assignment of students to distant schools on the basis of race, again a complete reversal of the original Brown decision.

There has been another interesting 180-degree turn. When federal aid to common education was first proposed in the Civil Rights Act of 1964 some doubters expressed fear that federal funds might be withheld from schools that failed to follow HEW edicts.

This was denied on a stack of Bibles. Indeed, said the bill managers, cutting off funds for such a reason would "violate the law."

But not any more. In U.S. vs Jefferson County Board of Education the court boldly stated: "It is to the advantage of the school boards throughout the country to know the criteria the commissioner uses in determining whether a school meets the requirement for eligibility to receive financial assistance."

And the court quoted the Civil Rights Commission:

"With funds of such magnitude at stake, most school systems would be placed at a serious disadvantage by termination of federal assistance."

All this has come about, not only without legislative sanction, but in contempt of clear legislative language.

Thus the 1964 Civil Rights Act stated:

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

The fact that these plain words haven't even slowed down those who are determined to make over America's schools according to their own wishes recalls the words of Daniel Webster:

"It is hardly too strong to say that the Constitution was made to guard the people against the dangers of good intentions."

And former Supreme Court Justice Louis Brandeis said:

"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficient. . . . The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning, but without understanding."

NEW YORKER ON NATIONAL GENERAL SERVICES PUBLIC ADVISORY COUNCIL

Mr. JAVITS. Mr. President, General Services Administrator Robert L. Kunzig has formed a National General Services Public Advisory Council for the purpose of creating more public involvement in the operations of GSA.

The State of New York is ably represented on the Council by Mrs. Carmel Carrington Marr, currently a member of the New York State Human Rights Appeals Board. Mrs. Marr is starting the second year of her 6-year appointment by Governor Rockefeller to the Human Rights Appeals Board. She is a member of the New York State bar, but left private practice in 1953, when she was appointed to the U.S. mission to the United Nations by Ambassador Henry Cabot Lodge. During her years of service with the U.S. mission, she was a member of the U.S. delegations to the General Assembly, the Security Council, several sessions of the Human Rights Commission, and other U.N. organs.

Mrs. Marr received her B.A. cum laude from Hunter College and her LL. B. from Columbia University Law School. She is a member of Phi Beta Kappa and Alpha Chi Alpha honorary fraternities.

She is active in community affairs, the Brooklyn Society for Prevention of Cruelty to Children, the board of visitors of the New York State Training School for Girls, and the Governor's Committee on Education and Employment of Women.

Administrator Kunzig is fortunate to have obtained the services of this outstanding citizen.

SOME REFLECTIONS ON THE FOREIGN AID DEBATE

Mr. DODD. Mr. President, the debate on foreign aid which took place in the Chamber during the late afternoon and early evening hours last Saturday marked an unfortunate chapter in the history of the U.S. Senate.

In making this statement, I want to make it clear that I cast no blame. In a sense, I believe we are all to blame for the confusion and haste that characterized the debate; and there are lessons for all of us to learn from what happened.

In the course of the debate, the Senate succeeded in scuttling the foreign aid bill, in violating its own rules, in affronting the House of Representatives, and in establishing a precedent which might do grave damage to the entire conference procedure.

Perhaps the chief lesson to be learned from this experience is that it simply makes no sense for the Senate to be considering important legislation on the Saturday before Christmas, with a third of its Members absent, and the two-thirds of those present eager to get home and, quite understandably, irritable.

The decision to table the conference report on the foreign aid appropriations bill is bound to raise grave doubts about our steadiness and reliability, not only in the eyes of those nations which are today recipients of American foreign aid, but in the eyes of all our friends and allies as well.

It is bound to encourage our enemies by strengthening the belief, which is already very dangerously widespread, that America is afflicted by a paralysis of policy.

Originally, the specific item at issue in the conference committee report was the provision of $54,500,000 for military aid to the Republic of China.

This item was included in the version of the foreign aid bill initially approved by the House.

It was not included in the version reported by the Senate Appropriations Subcommittee and approved by the Senate in the vote taken on Thursday, December 18.

In conference, the House conferees yielded on a number of important points to the Senate; but on this one point, in order to achieve a compromise, the Senate conferees yielded to the House.

The question of whether or not it is advisable or necessary at this juncture to provide the Republic of China with modern fighter aircraft is one that can be debated both ways.

But I recall that one of the decisive factors in the winding up of the Taiwan Straits crisis was that the Nationalist Air Force at that time was consistently able to outperform and outfight the Chinese Communist Air Force. After suffering a number of humiliating defeats in air battles, the Chinese Communists decided to call off their provocations.

It is generally conceded that the Chinese Communists today possess fighter planes far superior in performance to the outdated planes still being flown by our Chinese Nationalist allies. Clearly, this could create a dangerous situation.

That is why, I believe, a majority of the House was disposed to favor the recommendation.

I am distressed that Senators who hold the opposite viewpoint have now decided to table the conference report simply because it did not accord with their own views on the subject.

Following the decision to table the conference report, the distinguished majority leader moved:

That the conferees be instructed to insist upon its amendments, and particularly to insist that the level of appropriations not exceed those authorized by law for this fiscal year, and that no earmarking of funds for particular countries be specified for military assistance.

It was approaching 7 o'clock in the evening when the vote on this motion was taken, and I fear that many of the 48 Senators who voted for it simply did not understand the implications of the motion, nor did they appreciate the fact that, in at least two respects, and possibly three, this motion was in violation of the rules of the Senate and of the specific rules governing conference procedures.

First, by laying down a blanket instruction to the Senate conferees to insist on all of the amendments approved by the Senate, the motion reduced the conference procedure to a mockery.

There have, I know, been instances in the past when the Senate voted instructions on specific items in a bill before sending it to conference. But to the best of my recollection, the Senate conferees have always been left with considerable latitude to enter into the orderly "give and take" with the House conferees which is at the heart of the entire conference procedure.

This is the first instance that I can recall where Senate conferees have been instructed to meet with the House conferees on a "take it or leave it" basis.

Second, by stipulating that "the level of appropriations not exceed those authorized by law for this fiscal year," the motion, as the able senior Senator from Florida (Mr. HOLLAND) pointed out, had the effect of denying to the House the right to make their own rules and to operate under them.

In what I consider a masterly presentation on the relationship of appropriations to authorization, the Senator from Florida made the point that the House frequently placed on appropriations bills items which were not in the authorization; and that the Senate not only has the power to do likewise, but has done so on numerous occasions.

On this point, the motion negates something which the rules specifically allow.

The majority leader, in the course of the debate, expressed the concern that the integrity of the committee system was bound to suffer damage if it is, in fact, true that the Appropriations Committee could exceed the amount stipulated on any given item by the authorization bill.

I understand his concern, and I think there is much merit to the point he made. As he may recall, I myself raised the question whether it would not make sense to consolidate the authorization and appropriation functions, as was once the case.

Saturday's debate pointed up the existence of a very real problem, one that we shall have to discuss further when Congress reconvenes.

But even if we should decide at some future date to revise the rules under which we operate, I think all Senators would agree that we must at all times be guided by the rules in force at the moment.

Finally, there is the rule which provides that a matter on which both Houses agree is not in conference.

The Senate as well as the House went on record as approving the earmarking of $50 million in military aid for the Republic of Korea.

But the motion which was approved by the Senate last Saturday night now instructs our conferees that:

No earmarking of funds for particular countries be specified for military assistance.

It seems to me that on this third point the motion is clearly in violation of the rules governing conference procedure.

Mr. President, I feel that by the two actions that we took in the debate on the foreign aid bill on Saturday the Senate has played a dangerous game with that bill, a game that can do serious damage to the integrity of the democratic process and parliamentary procedure, if it is permitted to stand as a precedent.

Nor do I believe I overstate the significance of the decision to table the conference report on the foreign aid appropriation.

What was involved was not a solitary action on one aspect of our foreign aid program, but another round in the unrelenting attack on our entire foreign aid program which has characterized the debates in Congress over the past several years.

I can only hope, with the Senator from Florida, that wiser counsel will prevail when the Senators get through the Christmas holidays and return to the consideration of the foreign aid bill when Congress reconvenes on January 19.

BLACK EDUCATION AND WHITE LIBERALISM

Mr. HANSEN. Mr. President, the magazine the New Leader for December 22, 1969, published an exchange of correspondence among three men, entitled "Black Education and White Liberalism."

Those who wrote the letters are Thomas A. Billings, former director of Project Upward Bound; Bayard Rustin, executive director of the A. Philip Randolph Institute; and Daniel P. Moynihan, Assistant to the President of the United States.

The subject of this exchange of correspondence, as Mr. Moynihan so aptly put it, deals with bureaucratic abuse of the rights of individuals. I ask unanimous consent that the article be printed in the RECORD. I believe it will be of interest to Senators and to many employees of the Federal Government.

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

BLACK EDUCATION AND WHITE LIBERALISM

AUGUST 12, 1969.

Mr. DANIEL P. MOYNIHAN,
Assistant to the President,
The White House,
Washington, D.C.

DEAR PAT: Enclosed is an "Open Letter" to me written by Thomas A. Billings, the Director of Upward Bound, and my reply. I have requested that he send my letter to the Up-

ward Bound Project Directors and Consultants who have also received his original letter.

Best,

BAYARD RUSTIN,
Executive Director, A. Philip Randolph Institute.

THOMAS A. BILLINGS

JUNE 16, 1969.

To: Upward Bound Project Directors and Consultants.

From: Thomas A. Billings, Director, Project Upward Bound.

An open letter to Bayard Rustin:

As a long-time admirer of yours, I am hesitant about challenging any of your remarks regarding the needs and aspirations of black youth in America. Certainly you should know more about those needs and aspirations than I do. A white man half your age should probably remain silent when you speak on racial matters.

But your recent remarks regarding "soul courses" and the "real world" went infinitely beyond mere instruction to black youth. Your remarks, among other things, strike at the very heart of "liberal education." Since I am persuaded that our current national tragedy reflects the eclipse of "liberal learning" and the bankruptcy of liberal knowledge in the nation, I am compelled to radically disagree with you about (1) the value of "soul courses" and (2) their relevance to the "real world."

Because I want you to understand what I hope to say about the "real world," Mr. Rustin, I will avoid most of the technical language of philosophy normally connected with discussions of this sort. Part of our problem nowadays stems from our careless use of language on the one hand, and our use of pseudo-technical language on the other hand.

But before I get into a conversation with you about the "real world," Mr. Rustin, let me point out that there have been three great problems—or questions—or branches of philosophy. The three great questions have been: What is real? What is true? What is good? These remarkably durable human questions have given rise to three great areas of human inquiry. Generally, questions about "reality" fall to the *ontologists* for response. The scientific method is a natural outgrowth of man's concern for the "real world"; both the soft and hard sciences are stalwarts in the house of ontology.

Questions about "truth" gave rise to *epistemology* or, put another way, to that branch of philosophy which explores human comprehension of "the real," an inquiry into how man learns about "the real." Commonly, philosophy 101 attempts to reveal the complex and intimate relationship between "the real" and "the true." Let me assure you, epistemology is a veritable minefield of ancillary questions: If real, is it also true? Can something be true, but not real? Aren't reality and truth one? Is reality general, objective and universal or is it specific, subjective, and particular? If you remove the human subject, does reality have "meaning"? If so, to whom? If not, does the "real world" depend upon human interpretation? Is the "real world" an invention or a discovery? Is the world of "ought" as "real" as the world of "is"? Is an idea "real"? As real" as a rock? Are there modes of "reality"? Was Martin Luther King's dream real? Are social "realities" immutably decreed by the gods, or are they products of human imagination, hence subject to human revision?

The third great question—What is good?—gives rise to *ethics*, the consideration of human (interpersonal) relationships. The profound questions of "good" and "evil" appear here, inextricably bound up with questions about the "real" and the "true," that is, bound up with ontology and epistemology.

For at least 5,000 years, Mr. Rustin, men on this planet have been grappling with these great prime questions. I was startled, therefore, by the suddenness with which you closed out the dialogue and bolted the door of inquiry and revision. Obviously, at last we have it: "X has no meaning in the 'real world.'" What else, Mr. Rustin, beyond "soul courses," have [*sic*] "no meaning in the real world"? Is it possible that *souls* have no place in the "real world"? Are all the attributes and delights of the human soul equally untenable in "the real world"? What would nurture a *soul*, Mr. Rustin, but soul courses, *i.e.*, instruction? What place has poetry in your "real world," Mr. Rustin—or art or dance or drama? Aren't "soul courses," now urged by black youth, only a combination of the art, poetry, music, and literature of black people cast in the mold of the American black experience? Isn't that art and that poetry and that music and that literature "real" and hasn't the black experience in America been "real"? Isn't all poetry and all art and all music and all literature only the expression of a people's life experience whether it's the art and poetry, music and literature of American blacks or the art, poetry, music and literature of American Celts, Buriat Mongolians, Berber Tribesmen, Basque Shepherds, Mexican Villagers, Catholic Bavarians, Irish Republicans, Vietnamese Nationals, Buddhist Monks, Japanese Fishermen, Islandic Eskimos, Javanese Mountainmen, or Suburban Anglo-Saxon Executives?

Or is the "real world" only the world—objective and subjective—which the American marketing-military-industrial Establishment has fashioned? I think that I could agree with you that "soul courses" aren't going to be worth a dime in that world. But, Mr. Rustin, is that the "real world"? If so, is it at the same time "true" and "good"? If it is not true and good, do you suppose "soul courses" would help it become not only "real," but "true" and "good," or is it possible that truth and goodness have no meaning in the "real world"? My God, has it really come to that?

How long has it been, Mr. Rustin, since you took a long, hard look at the curriculum in the schools of America? What sense of pride, of cultural legacy, of self-confidence accrues to a Chicano child after 12 years in the public schools of El Paso, Texas? What sense of pride, of cultural legacy, of self-confidence accrues to a North Cheyenne child after 12 years in the public schools of Billings, Montana? What sense of pride, of cultural legacy, of self-confidence accrues to a black child after 12 years in the public schools of Montgomery, Alabama or Shreveport, Louisiana? What is the effect on a child's spirit when he finds that the language spoken in his home, the language of his mother's lullabies and his father's pride, is illegal, not the language spoken in the "real world"? What is the effect on a child's spirit when the sounds and sights and loves and hopes of his little world are systematically excluded from the "real world"? What mangling of the spirit must come, what breakage of the heart must follow the "realization," *i.e.*, the desperate assimilation into the "real world" of these troubled centers of little worlds? Or worse, what rage must follow these violations of the little worlds of Ben Hernandez and John Has-Many-Horses and Joyce Lee and Johnny Old-Coyote?

If I understand anything about American youths it is that many of them are deeply unhappy about the "real world"; they are not at all sure that it is the world in which they want to live and work. Many of them—and God bless them for it—long for a better world, a more responsible world, a more humane world, a world in which the tears of children are as "real" as the rock of Gibraltar and ever much more alarming than the dips in the Dow-Jones Industrial Average. Most of them want desperately to believe in the human capacities of labor and intelligence and compassion. Most of them are sick to death of political chicanery, racial bigotry, religious hypocrisy, international looting and piracy disguised as the "national interest." Most of them are just tired of the champagne music of Lawrence Welk and the silly charade of manliness staged by America's business elite. It's this world, Mr. Rustin, that our young people are saying must go! The "real world"? Alas, of course it is! But not forever! Our young are part of the "real world," too, Mr. Rustin, as real as General Motors and Wall Street and Howard Hughes and American Airlines and Richard Nixon and J. Edgar Hoover and the United Fruit Company. And their hopes are real, and their dreams and tears. And their anger!

A last point. Technical skill is always an important thing to have. Techne—or "know-how," while highly prized among the Greeks, was rarely confused with either knowledge (gnosis)—or wisdom (sophia), both of which were infinitely more valuable than techne. Techne was techne—craftsmanship, skill, technique, an important attribute in the work-a-day world. But the Greek world was more than the work-a-day world. It included art and poetry and drama; indeed, much of the world's great soul food. Only among slaves was the work-a-day world the whole world, the "real world." For you not to know this would be an unbearable irony, Mr. Rustin, and a tragic paradox.

BAYARD RUSTIN

AUGUST 12, 1969.

Mr. THOMAS A. BILLINGS,
Director, Project Upward Bound,
Office of Economic Opportunity,
Washington, D.C.

DEAR MR. BILLINGS: I found your open letter to me opposing my position on separatist black studies very interesting—not for anything it had to say about black studies or higher education, but for what it revealed about your own dilemma and by extension, the dilemma of other similarly situated white liberals.

You are convinced "that our current national tragedy reflects the eclipse of 'liberal learning' and the bankruptcy of liberal knowledge in the nation. . ." Since you are a liberal, I think this remark betrays an exquisite form of self-contempt, a self-contempt that is not entirely unrelated to the extraordinary guilt with which liberals like yourself are reacting to our racial crisis. If liberalism is bankrupt and in decline as you maintain, if it lacks any revitalizing tradition and system of values, then it follows that liberals must look beyond themselves for a new world view, a new source of vitality. They must look figuratively to the East, to African and Asiatic culture, which has always represented in Western consciousness the subjective urges of man, that which is primitive, irrational, vital; that, in other words which they have repressed. And in America, alas, they look toward the Negro. Drawing unwittingly upon our country's racist heritage, they place the Negro in the role of the natural man come to revive the juices of white civilization.

A second aspect to the problem is relevant here. There is a psychological phenomenon occurring today among increasing numbers of affluent highly-educated Americans like yourself that has been variously described as

anomie, alienation, identity crisis. These people suffer from a sense of dislocation and dispossession which has given rise to a political orientation that Arnold Toynbee has called "subjective proletarianism." It is a romantic form of politics rooted in guilt, acutely sensitive to problems concerning individuality and identity, and characterized by a peculiar combination of self-depreciation and snobbish patronization. Thus it is not surprising that this lumpenintelligentsia would react with unusual enthusiasm to the position of black nationalists, would romanticize their demands for separatism and self-determination, and would identify these demands as the position of the "black community," when, in fact, they represent the views of a small minority of Negroes. Negroes have been used and exploited in many ways by white Americans, but it is only recently that they have been asked to satisfy the masochistic craving of disenchanted liberals for flagellation and rejection.

Let me be quite explicit. There is today a legitimate and heated debate going on within the Negro community between separatists and integrationists. It is not a new debate, but one that has recurred repeatedly in the history of black Americans, particularly during periods of political reaction when many Negroes, out of despair, want to withdraw from the mainstream of our society. You are certainly free to take sides in this debate, even if in the process you must patronizingly indicate to Negroes their need for a "sense of pride, of cultural legacy, of self-confidence." I should think that you are far more lacking in these qualities, for you have nothing but disdain for your own cultural and intellectual tradition.

Let me remind you that my position in this debate derives from my experience as a black man in America (not as a "Suburban Anglo-Saxon Executive"), from my knowledge that separatism historically and presently for Negroes has been indistinguishable from inequality, exploitation and poverty, and that despite all the romantic rhetoric used to make it appear respectable, separatism shall continue to be immoral and degrading. It was not out of any failure to perceive the nature of the "real world" that I spent 28 months in a Federal penitentiary for my pacifist beliefs, or 30 days on a chaingang in North Carolina for trying to integrate a bus, or that I was arrested on 21 other occasions for opposing injustice. One can be aware that "the tears of children are as 'real' as the rock of Gibraltar" without indulging in sentimentality and self-righteousness.

Despite your entreaties, I shall continue to advocate those means by which Negroes can obtain the educational skills, as well as the political and economic power, that will enable them to achieve equality *within* the context of American society. And I shall oppose those strategies, whether motivated out of the desire to oppress or to patronize, which can only perpetuate and compound the injustices committed against black people in this nation.

I trust you will send my reply to all the Upward Bound Project Directors and Consultants.

Sincerely,

BAYARD RUSTIN,
Executive Director,
A. Philip Randolph Institute.

DANIEL P. MOYNIHAN
SEPTEMBER 30, 1969.

Mr. BAYARD RUSTIN,
Executive Director, A. Philip Randolph Institute, New York, N.Y.

DEAR BAYARD: I enclose a letter being sent to all Upward Bound directors and consultants by Mr. [Donald] Rumsfeld. This is, of course, in response to your letter to me of August 12 reporting the incredible and intolerable behavior of the former Director of Upward Bound, and enclosing a reply by you to the attack which he had addressed to that group. Mr. Rumsfeld's letter will distribute your reply to all those who received the original letter from Billings.

In the nature of the situation this is, I suppose, all that can be done. An outrageous charge has been made and distributed, a reply is distributed in return. However, you and I know that the exchange is rarely an equal one. It is clear to me that you have been done an intolerable injury by an official of the United States government. I have established that Mr. Billings' letter is dated a day after his resignation from the government, and that it was sent without the knowledge of his superiors in the Office of Economic Opportunity. (Mr. Billings became Deputy Project Manager of the Upward Bound Program in April 1967 and shortly thereafter became Project Manager, which post he left on June 15, 1969, on the occasion of the transfer of the program from OEO to HEW.) The fact remains that a government official, on stationery of the Executive Office of the President, directed an extended personal attack against a private citizen because of views expressed by that citizen on public issues. The letter was written and mailed at government expense, and sent to persons who in one form or another are recipients of public monies disbursed by the same public official.

As you will be the first to agree, the injury done you has nothing to do with the rightness or wrongness of your views. The issue is the intimidation by government of a private citizen because of his holding disapproved opinions.

This is the essence of thought control in a totalitarian state. Those who express thoughts disapproved of by those who control the government machinery are vilified and defamed; others who might be so tempted are warned of the consequences in the most vulgar terms. "You, too, can get in trouble."

I do not know which development appalls me more: that Billings sent the letter, or that no Project Upward Director has apparently seen fit to protest it. Have Americans become so accustomed to seeing government abusing the rights of individuals and intimidating the recipients of government benefactions? I recall from my youth the observation that if fascism should ever come to the United States it would be in the guise of antifascism. I very much fear we see the tendency in this squalid enterprise.

Mr. Billings was clearly not appointed by this Administration. His letter is as disrespectful to President Nixon, as it is libelous of you. No persons of responsibility in the present Administration even knew of the letter. But that, of course, is small consolation.

It should be clear from my letter how much I have been troubled by this event. If you should for any reason wish to make my letter public, do not hesitate to do so.

Sincerely,

DANIEL P. MOYNIHAN,
Assistant to the President.

FRANCHISES: IS THE SMALL BUSINESS BOOM A BOONDOGGLE?

Mr. WILLIAMS of New Jersey. Mr. President, an excellent article regarding the hearings on franchising scheduled in January by the Senate Small Business Subcommittee on Urban and Rural Development written by Robert W. Maitlin, was published in today's Newark Star-Ledger. I ask unanimous consent that this perceptive piece be printed in the RECORD.

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

[From the Star-Ledger, Dec. 22, 1969]

FRANCHISES: IS THE SMALL BUSINESS BOOM A BOONDOGGLE?

(By Robert W. Maitlin)

WASHINGTON.—"For $49,750 buy someone you love a Mickey Mantle men's shop," reads an advertisement in a well-known business newspaper.

This ad and many similar ones extolling the virtues of private ownership have given rise to the greatest economic phenomenon in the nation's history: The franchise business.

Nationally franchised businesses produce some $90 billion in annual sales, or 10 per cent of the Gross National Product. New Jersey alone accounts for $5½ billion a year.

SOME "DIE"

Today, more than 1,000 different franchisers operating in the United States have licensed approximately 600,000 franchises. There are 37,000 operating in New Jersey. They range from fried chicken stands to wig boutiques.

But over-competition in many areas, especially fast food service, may be killing the franchise golden dream of self-ownership.

Other franchises are complaining that parent companies do not give them enough help to make their businesses successful.

It is to this question, whether the franchise business is a "boon or boondoggle," that Sen Harrison A. Williams Jr. (D-N.J.) has devoted himself.

Next month, Williams will hold three days of hearings to determine the state of franchising in the U.S.

"To my knowledge," he said, "no committee of Congress has ever before attempted a broad study of the entire franchising field. Our hearings will attempt to unwrap the entire franchising package for the benefit of all concerned."

Williams said his Senate small business subcommittee will explore two general questions:

Can franchising increase small business opportunities in urban and rural America?

What is the impact of the franchising concept on small business?

Many celebrities have found their names can be worth millions when placed in the franchise game.

And it is anticipated that several of these including Johnny Carson ("Here's Johnny Restaurants"), Mickey Mantle (men's shops and "Country Cooking"), Arnold Palmer (golf-putting courses), Joe Namath ("Broadway Joe's Restaurants"), Gino Marchetti ("Gino's Hamburgers") and Minnie Pearl (fried chicken) will testify.

Also included on the witness list are representatives of the Better Business Bureau of New Jersey, and several Jersey franchise operators from gasoline and other retail areas.

The first day's hearing will be devoted to a panel discussion between two franchise distributors and two franchise operators.

As would be expected, these two groups are offering completely different views of the franchise situation. The owners say 90 percent of their operators are happy in their situations. The operators represented by the National Association of Franchised Businessmen, quote the same percentage as saying they are unhappy with the way their businesses are being operated.

One New Jersey man said he invested $27,000 in a rental franchise business with the understanding he would be given a large promotion by the parent company. A year later his entire investment was lost and he

is complaining that the parent company never came through with its end of the bargain.

Another sore point among franchise owners is that some companies, especially gasoline outfits, allow unrestricted competition among their own operators.

Several New Jersey gasoline station operators, who plan to testify at the hearings, said as soon as their sales started to increase, another station from the same company would start up in their area.

Others complained about contract clauses that allow the parent company to buy back businesses at its discretion.

In many cases, this happens when the business starts to operate successfully, and the operator, who had built it up from scratch, is left out in the cold, some say.

The hearing also will delve into whether the franchise concept can make any significant contributions to the field of minority businesses. The possible role of the federal government in this area will be closely examined, said Williams.

The post office's mail-fraud division handled 129 cases involving franchise operations last year. The problem has increased to the point where the Federal Trade Commission (FTC) may set up a unit to screen franchise ads for fraud.

"The shysters," said one FTC spokesman, "have moved into this area fast."

"I intend to conduct these hearings," said Williams, "in such a manner as to provide an unbiased forum where we can objectively study and explore the contributions made to our economy by the franchise system of distribution as well as any fraudulent, exploitative and burdensome practices within this system."

THREAT OF PRESIDENTIAL VETO OF COAL MINE HEALTH AND SAFETY

Mr. WILLIAMS of New Jersey. Mr. President, it is heartening to observe that the working press, whether from coal mine areas or otherwise, is bringing to the attention of the public the importance of the Coal Mine Health and Safety Act of 1969, and the need for immediate Presidential approval.

Last Saturday, the Washington Star, in a moving editorial, stated the moral demand for justice at last for one of the hardest working, least complaining, and most overlooked groups in America—the coal miner and his family. Today, the New York Times added its voice to the growing call for the President to sign this "desperately needed" legislation.

I ask unanimous consent that the New York Times editorial be printed in the RECORD.

It is not just the working press that is calling on the President to sign the bill without delay. Mail from all over the country urges the President to sign the bill. Indicative of this mail is a letter I have received from medical students in New Jersey. These students who have studied the problems of health and safety conditions in the coal mines demand "emphatically that the administration must energetically endorse and execute the provisions" of this bill.

I know this letter will be of interest to Senators. Therefore, I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Dec. 22, 1969]

LOST IN A COAL SHAFT

The White House apparently failed to do its home work on the Mine Health and Safety Act, which has won overwhelming approval in both Senate and House in the face of last-minute warnings that President Nixon might veto it. Differing versions of the bill were passed by both chambers nearly two months ago; almost a month has gone by since the conferees agreed on a final draft.

Under these circumstances, it was inexcusable for the Administration to wait until the eve of a vote to send word that the projected benefits for victims of "black lung" disease were too expensive for inclusion in the Federal budget. Congressional experts consider the cost estimates prepared by the Bureau of the Budget vastly inflated. They put the peak cost at $120 million a year, as against the White House projection of $385 million. And that peak will not come until the third year of the program, after which the burden will pass to mine operators and state workmen's compensation programs.

Given the epochal character of the law in reversing decades of neglect on the part of industry, the union and officialdom, it would be astonishing if the President did veto it. He has spoken out strongly for action to end the unnecessary hazards of mining. The bill awaiting his signature is an effective and desperately needed answer to that call.

LYNDHURST, N.J.,
December 18, 1969.

Senator HARRISON WILLIAMS, Jr.,
Capitol Building,
Washington, D.C.

DEAR SENATOR WILLIAMS: We are medical students; we have recently completed a study of health and safety conditions among West Virginia coal miners. During this study we talked with company officials, mine safety directors and foremen, miners, physicians, and representatives of the State government. We visited several mines and the U.S. Bureau of Mines laboratories.

We have read reports that the Nixon Administration is considering a veto of the pending revision of Federal coal mine health and safety standards. We have sent him the following statement:

"We consider the proposed revisions minimal indeed, considering the magnitude of the safety problem in the mining industry. Budgeting is always a matter of priorities; we believe protection of the health and well being of this country's workers is of the highest priority. Certainly the most affluent, most technologically advanced nation in the world can afford minimum safety standards!

"We believe further that an Administration veto of the mine safety bill would be a gravely irresponsible act, one that would be contrary to the American principle of government of, by, and for the people. We wish to express our concern for this matter, and to state emphatically that the Administration must energetically endorse and execute the provisions of the new safety bill. To do otherwise will cost you our support and confidence, and doubtless, that of most others who have an active concern in matters of industrial health and safety."

We communicate this to you to encourage you to devote energy and influence to further domestic reform, and to express to you our active concern for adequate health and safety legislation (with enforcement).

Very truly yours,

PETER AND KATHLEEN GRAZE.

P.S.—We are aware of various legislation which you have introduced and applaud your efforts.

COMMENT BY SENATOR JACKSON ON DEFENSE APPROPRIATIONS CONFERENCE REPORT

Mr. JACKSON. Mr. President, I want to express my appreciation to the Senate for backing the Defense appropriations conference recommendations concerning two important items affecting construction of future nuclear powered warships urgently needed to modernize our Navy.

The first item relates to the decision to provide $110 million of advance procurement funds for long leadtime items for five submarines of the new high speed submarine class. Full funding for these five submarines will be provided in the future. These submarines are in addition to the first three submarines of this class which are fully funded in this year's budget. The Defense appropriations conference agreed with the position taken by the Armed Services Committees and the Joint Committee on Atomic Energy that the funding of all eight of these submarines should be provided so as to permit the earliest possible delivery of these ships. You have heard described many times the rapidity with which the Soviets are improving their submarine force. I am proud of the action taken by Congress to insure that our nuclear submarine program is moving forward and I urge the Department of Defense to move at high priority to insure that these eight high speed submarines are delivered to our fleet as soon as possible.

The second item relates to $10 million of advance procurement funds for long leadtime items for the fifth nuclear-powered guided-missile frigate of the new class called DXGN. This money was originally added by the Senate and subsequently concurred in by the conference. The first four DXGN's will be required to complete the nuclear escorts needed for the nuclear powered aircraft carriers *Enterprise* and *Nimitz*. Long leadtime components for these four DXGN's are already being procured and the first of these ships is fully funded in this year's budget. The fifth DXGN will be the first nuclear escort for the CVAN69.

It is important to get started now on this nuclear frigate and budget for more nuclear frigates in the next few years in order to provide more nuclear-powered surface warships for our naval striking forces. As the United States reduces the size of its Armed Forces and continues its withdrawal from overseas deployment, the need for nuclear propulsion in our naval striking forces will continue to increase.

The Congress has consistently taken the initiative to provide nuclear-powered warships to modernize our Navy. I am glad to see that the Congress is continuing in this direction. I urge the Department of Defense to do everything possible to recognize the need for a strong nuclear frigate building program.

ARMED SERVICES RESERVE RECOGNITION DAY

Mrs. SMITH of Maine. Mr. President, at a time when the reserve components of the Armed Forces of the United States

are being maligned with charges of being draft-dodger havens, I am deeply gratified that the President issued a Reserve Recognition Day proclamation on December 16, 1969. I ask unanimous consent that the text of the presidential proclamation honoring the members of the reserve components for their outstanding performance in defense of their country be printed at this point in the RECORD.

I commend President Nixon for the appropriate recognition he has given to these citizen soldiers, sailors, and airmen. I commend him most highly, as he is the first President since Harry S. Truman to extend to reservists the recognition they so richly deserve.

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

RESERVE RECOGNITION DAY: BY THE PRESIDENT OF THE UNITED STATES OF AMERICA—A PROCLAMATION

In January and May of 1968, one hundred and fifteen units from the Reserve Components of the Army, Navy and Air Force were ordered to active duty to quickly augment the Active Forces. This action provided this country with armed strength capability with which to meet possible contingencies that might have arisen as a result of the threats and actions by the North Koreans and the need for additional troops in Vietnam caused by the TET offensive.

Many of these units have served in Vietnam while others have served in Korea, Japan, and the United States. Those units remaining in the United States were primarily used to strengthen the strategic reserve and participate in the Military Airlift Command operations.

By June 18th, Reserve units of the Naval Air Reserve, the Naval Reserve Mobile Construction Battalions (SEABEES), the Air National Guard, and the Air Force Reserve were demobilized and the units returned to inactive reserve status. The units of the Army National Guard and the Army Reserve have now been released.

All of these Reserve Component units responded to the Nation's call in time of need and established records of performance, both in and out of combat, which have demonstrated a level of readiness and training never before achieved by our reserve forces. In addition, many individual reservists volunteered for active duty during this period. They have truly upheld the heritage and tradition of the citizen soldier and have again proven that both the National Guard and the Reserves are a great resource for our country and one which is necessary to our national security.

Now, therefore, I, Richard Nixon, President of the United States of America, do hereby issue this proclamation in recognition of and appreciation for the patriotic, dedicated and professional service of our loyal members of the Reserve Components of the Armed Forces of the United States.

In witness whereof, I have hereunto set my hand this 16th day of December, in the year of our Lord nineteen hundred and sixty-nine, and of the Independence of the United States of America the one hundred and ninety-fourth.

RICHARD NIXON.

A MATTER OF TOLERANCE

Mr. DOLE. Mr. President, last month the junior Senator from Colorado (Mr. DOMINICK) delivered a most timely speech at a meeting of the Texas Bill of Rights Foundation in Houston, Tex.

The Senator discussed in detail his reason for disagreement with court decisions banning prayer in public schools.

I believe that Senators will find this speech of particular interest at this time. I ask unanimous consent that the speech and a WMAL editorial entitled "A Matter of Tolerance" be printed in the RECORD.

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

RELIGIOUS FREEDOM—WHO'S RUNNING THE SHOW?

(By U.S. Senator Peter H. DOMINICK)

Ladies and Gentlemen, the winds of change sweeping the country seem in recent years to have reached gale-like intensity. I find it difficult to believe that any but a modern day Rip Van Winkle has not been personally affected, or, at least impressed, by the dynamic forces at work shaping and reshaping every aspect of American society. Whether these forces bear the seeds of self-destruction or carry the promise of a better tomorrow is something difficult to assess.

In past years, it was commonplace to shy away from such sensitive topics as religion and sex. If this was commonplace for public speakers generally, it verged on being an absolute truism for politicians appalled at the prospect of making even the smallest wave. Today, on the other hand, requests for personal appearances and speaking engagements not infrequently advance both of these as topical subjects.

In selecting religion, specifically, the school-prayer controversy, to comment on this evening I want to make it perfectly clear that I didn't dismiss sex out of any fear of upsetting any electoral applecarts. The late Senator from Kentucky and Vice President of the United States, Alben Barkley on one occasion was asked to explain the reasons behind the differences in labels between the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. Without hesitating the VEEP, after noting the usual age discrepancy between members of the House and Senate, said that most Senators were young enough to have relations, but too old to have affairs.

The depth of "The True Believer's" conviction is no longer measured in terms of decibles or energy or persuasion but by a bumper crop of automotive decorations. Among the more fashionable of the current crop, one can choose between such choice bits as McNamara is an Edsel; ABM is an Edsel; America, Love It or Leave It; Make Peace Not War; Register Communists, Not Guns; Boycott Grapes; I Fight Poverty—I Work. One of my particular favorites of the bumper sticker campaign is the disarmingly candid "Are You Putting Me On?" This is what flashed through my mind when some years ago I first read the Supreme Court's ruling that the non-denominational and non-mandatory New York Regent's Prayer constituted "an establishment of religion" in violation of the First Amendment.

Having established the fact that I dissent from a decision of one of the three coordinate branches of the federal government, I hasten to add that I do not number myself among those critics who blame the high court for every one of our current ills. Our courts have not contributed in any way to our present involvement in Vietnam, or impaired present and past efforts to achieve an honorable and just peace in that far-off corner of the globe. Nor, by the same token, can our judges be held to account for high prices and higher interest rates, the lack of adequate housing, the threat to our natural resources caused by the mindless discharge of pollutants into the Nation's airways and waterways, to mention just a few of the problems that demand our immediate attention.

However, I am equally opopsed to the tendency of persons in certain quarters who equate anything less than absolute concurrence with the views of the justices as a slur upon the Court. Many of these self-same appointed defenders of the court were supporters of, or are spiritual heirs to, a tradition that supported the ill-fated court-packing scheme of the 1930's. More significantly, the justices themselves have expressed abhorrence of such a view.

It is in this spirit that I dissent from the Court's pronouncements that nondenominational voluntary school prayers are the first step on the road to an officially sanctioned church.

By way of necessary preliminary, let us stop for a moment to consider the specific constitutional language governing state-church relations in this country. The mainspring of our religious liberties is contained in select provisions of the First and Fourteenth Amendments of the Federal Constitution. The First Amendment, in relevant part, provides that "Congress shall make no law respecting an establishment of a religion, or prohibiting the mere exercise thereof . . ." A number of questions concerning its meaning and scope come immediately to mind. First and foremost, it will be noted that the First Amendment is clearly and unequivocally a limitation on the power of Congress and, by necessary implication, on the whole federal establishment. Since the laws at issue in the school prayer cases were without exception the product of state, not federal action, we are obliged to look elsewhere for a source which either by itself or in combination with the First Amendment controls the state's freedom of action in this most sensitive sphere. That source is the Fourteenth Amendment, specifically that portion that reads—"nor shall any State deprive any person of liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Although there is nothing in the quoted language addressed in so many words to freedom of religion or forbidding an establishment of religion, the Court nearly three decades ago held that the guaranty of liberty contained in the amendment makes these safeguards effective against the states. In the words of the Court in 1940:

"The fundamental concept of liberty embodied in that Amendment embraces the liberties guaranteed by the First Amendment. The First Amendment declares that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof. The Fourteenth Amendment has rendered the legislatures of the states as incompetent as Congress to enact such laws." (*Cantwell* v. *Connecticut*, 310 U.S. 296, 303 1940.)

Since, as we have already noted, the language of the First Amendment does not literally denounce any specific practice as an "establishment of religion," it obviously takes a measure of interpretation to bring school prayers within the boundaries of that clause. In this connection, it is interesting to note that there were not only morning devotionals in the schools but established churches at the time the First Amendment was adopted.

It is interesting to note that most of the judicial construction on the church-state issue has occurred within the past thirty years. In other words, while morning devotional exercises have been a common feature of the American educational scene from its humble origins in the first half of the 1800's

it is only in recent years that the federal courts have deemed them a suitable subject for judicial scrutiny. In point of fact, nine years before it handed down its controversial Regents' Prayer decision, the Supreme Court, in the case of *Doremus* v. *Board of Education* (342 U.S. 429, 1952.), held that in the absence of proof of any financial burden or expenditure of public funds to sustain the contested activity, complaining parents did not possess such direct, financial interest as is necessary to support an action challenging the legality of a state law requiring the reading without comment at each daily opening of public school classes of five verses of the Old Testament.

To summarize the state of affairs on the eve of the first school prayer ruling: little if anything in our past history as a Nation nor in the decisions of the Supreme Court appeared to indicate that the long-standing practice of opening prayer exercises in the public schools constituted anything but another example of what has been termed the "American Middle Way," or, in the Court's own words, one of those instance "when the state . . . follow(ing) the best of our traditions . . . adjusts . . . the schedule of public events to sectarian needs." (*Zorach* v. *Clauson*, 343 U.S. 306, 312–313, 1952.) As we have noted, the few relevant precedents inclined toward the two-fold conclusion that parents of school children were incapable of contesting school prayers and that this issue in any event did not constitute a substantial federal question.

In the New York Regents' Prayer Case, carried in the law reports as *Engel* v. *Vitale*, (370 U.S. 421, 1962), the Court relented and agreed to review an administratively-prepared prayer recommended for use in the public schools. The prayer, which consisted of only twenty-two words, and which was recognized by almost all of the parties to the suit to be grounded in a desire to stimulate civic pride and civic responsibility, was very simple indeed. The prayer in its entirety:

"Almighty God, we acknowledge our dependence upon Thee, and we beg thy blessings upon us, our parents, our leaders and our Country."

Three rungs of the New York judicial ladder had looked at this simple public expression of thanksgiving and patriotism in light of the Supreme Court's holdings on religion in the public schools and concluded that it did not fall within the bounds of these rulings. The trial court, in a long and reasoned opinion, concluded that:

"Twenty-two words in length, and thus taking substantially less than one minute to recite and a good deal less time for recitation than does the legislative prayer deemed by *Zorach* to be within permissible constitutional decree, the instant prayer, at least when its recitation is limited to daily exercises at the opening of school, must be classified as outside *McCollum's* proscription of religious instruction and within Zorach's sanction as an accommodation." (*Engel* v. *Vitale*, 191 N.Y.S. 453, 1959.)

However, the Supreme Court of the United States, Mr. Justice Black writing for the majority held that use of the public school system to encourage prayer recitation violated the Constitution. The opinion omitted any authority for its holding but ruled that the prayer had been composed by an official organ of the state and was therefore state intervention in religion.

The school board had argued that the prayer could not constitute an establishment since it was non-denominational. Moreover, the program was devoid of all coercion since students were at liberty to participate or not participate as they wished.

As to this, the Court said:

"To those who may subscribe to the view that because the Regents' official prayer is so brief and general there can be no danger to religious freedom in its governmental establishment, however, it may be appropriate to say in the words of James Madison, the author of the First Amendment:

" '(I)t is proper to take alarm at the first experiment on our liberties . . .' " (Id. at 436).

As we all know, popular reaction to the Court's decision was immediate and almost universally critical. While at fairly regular intervals throughout our history the Court has been, as one commentator put it, "the storm center of controversy", I cannot recall any decision that has provoked so loud and so prolonged a public debate. Despite personal misgivings with the Court's decision—misgivings which I described at the outset as bordering on out-and-out incredulity—I, like a great many others, read the mandate of the Regents' Prayer Case as applying to the singular instance of officially composed prayers. The intensity of the public reaction, if not the precedents, seemed to suggest that the Court would proceed with utmost caution in any future suit involving school prayers.

However, the Court soon disabused us of this thought in its joint opinion of June 17, 1963 in *Abington School Dist.* v. *Schemmpp* and *Murray* v. *Curlett*. (374 U.S. 203, 1963.) The Court ruled that the Establishment Clause forbids a state or any of its subdivisions to require the Bible to be read without comment and the Lord's Prayer to be recited daily at the opening of its public schools. The Court concluded that these were religious exercises, and that in requiring them the state had violated the command of the First Amendment that the government must be strictly neutral, neither aiding nor opposing religion.

While none of us has personally undergone the tragic old world religious experiences that impelled the Framers to write the religious liberty clauses into the Constitution, we all appreciate and praise their efforts in this regard. However, having acknowledged the necessity for this lofty safeguard, it is not improper to ask what relationship, if any, exists between the religious travails of the colonial and pre-colonial period and the current situation that requires condemnation of the wholesome practice of school prayers? Indeed, if such an immediate and negative relationship does exist, why didn't the Court see it earlier? Why cannot the vast majority of us see it now? What changed circumstances or conditions have recently emerged that compel the result reached by the court in the various prayer cases? And, yes, ladies and gentlemen, what evil consequences to the Constitution can be created by children praying in the schools that apparently are not created by legislators praying in our legislative halls?

I join Justice Potter Stewart who, in his dissent in the *Regents' Prayer Case*, said that the Court had "misapplied a great constitutional principle." (370 U.S. 445.)

What then can be said was the "original understanding" of the Framers of the First Amendment? I believe that the history of that amendment and more than a century of unequivocal practice support a number of conclusions respecting the guaranty of free exercises and the prohibition against establishment. First, the free exercise clause has always protected believer and non-believer alike. Thus, in the words of the Court "Neither (a state nor the Federal Government) can force nor influence a person to go to or to remain from church against his will or force him to profess a belief or disbelief in any religion. No person can be punished for entertaining or professing religious beliefs or disbeliefs, or church attendance or non-attendance." (*Everson* v. *Board of Education, op. cit.* at 15–16). But from the beginning the establishment clause has stood for "a governmental hospitality toward, and impartial encouragement of (religions that profess a belief in God." (Rice, *op. cit. supra*, at 179.)

This traditional approach premised on theistic religions was forsaken by the Court in its 1961 decision in the case of *Torcaso* v. *Watkins*. (367 U.S. 488, 1961.) In that case, the Court struck down a provision of the Maryland Constitution which required a state employee to declare his belief in God. Mr. Justice Black's opinion for the Court stated that this requirement improperly invaded the employee's "freedom of belief and religion . . ." It was invalid because the "power and authority of the State of Maryland thus is put on the side of one particular sort of believers—those who are willing to say they believe they believe in 'the existence of God.' " (Id. at 496, 490.)

Despite my obvious disagreement with the Court respecting the constitutional basis of the prayer rulings, I would gladly refrain from commenting on it, if I were persuaded that the various decisions handed down in recent years signaled either an increase in personal liberty, or stilled actual or potential divisiveness in our land, or if they quenched the thrist of a persistent, supersensitive minority. Although I have heard frequent references to the effect that the elimination of school prayers have insured personal liberty, I have yet to see or hear any clear evidence of this. According to all outward indicators, most Americans are not experiencing any new found sense of liberation as a result of the Court's edicts. On the contrary, the overwhelming response strongly supports the conclusion that by and large the American people feel betrayed and deprived of something precious in their public lives.

It is all too apparent that the elimination of the practice of school prayers rather than removing the source of discontent among certain persons has caused them to redouble their efforts toward the goal of total elimination of every example of the wholesome "accommodation" that has marked state-church relations in the United States. Thus, suits have been filed to strike the words "under God" from the Pledge of Allegiance, to eliminate tax concessions enjoyed by religious organizations, and to remove any vestige of our dedication to the proposition that the Creator is the fountainhead of our liberties.

The extreme sensitivity of this litigious minority is perhaps best evidenced by two suits recently filed in our courts. The first involved a suit asking the courts to force the City of Eugene, Oregon, to remove a cross that had stood in an area maintained as a park for more than thirty years. The Supreme Court of Oregon on February 26, 1969, held that the cross did not violate any religious liberty safeguard of the federal or state constitutions. In the course of its opinion the court quoted approvingly from an earlier opinion wherein it had paid tribute to the American Middle Way. It said ". . . A certain amount of interplay of influence exercised by state and church had been permitted. It is not difficult to cite examples . . . (M)any . . . religious practices and connotations are found in the functioning of government, both state and federal." (*Lowe* v. *City of Eugene*, 87 Ore 2d 1059, 1069, 1969. Seven months later, however, the court reviewed and reversed this earlier decision. Referring to the February 26 case, the court said it now agreed with Justice Goodwin's conclusion that display of the cross violated both the U.S. and Oregon constitutional provisions barring aid to religion. Goodwin reached the conclusion that there was "no doubt that the mayor and City Council were responding to popular demand. It was to prevent this very kind of pressure, however, that the establishment clause of the First Amendment was written into our federal Constitution."

In my own State of Colorado, a private citizen has constructed a huge display of

electric lights in the form of a cross 400 by 250 feet on the side of Mount Lindo just outside Denver. It is visible at night for many miles. We might well have had the same kind of lawsuits as were brought in Oregon except for the fact that the private citizen owned the land on which he had the cross constructed.

Most recently, one of the original complainants in the second prayer decision, has moved in our courts to enjoin NASA from broadcasting the prayers of our astronauts in outer space. In fact, you will remember that Astronaut Borman, when addressing a joint session of Congress said laughingly while looking at the Supreme Court, that he may have made a great mistake. But had he looked behind him, he would have seen the words "In God We Trust" inscribed in the marble arch over the chair of the Speaker of the House of Representatives. The same motto is engraved into the marble walls of the Senate Chamber. Also inscribed there is the Latin phrase "Annuit Coeptis," which means God has favored our undertakings. And under the great dome of the Capitol itself, Congress has created a tiny chapel where the soft light from a stained glass window showing George Washington kneeling in prayer falls upon the Holy Bible which is opened to the 16th Psalm. Are these to be future targets of the litigious minority which seems bent upon removing all vestiges of religious reference in our daily lives?

In dedicating the Lincoln Memorial in 1922, Chief Justice Taft described the memorial as "A shrine at which all can worship, an altar upon which the supreme sacrifice was made for liberty; a sacred religious refuge in which those who love country and love God can find inspiration and repose." Does that great memorial to a great president violate the First Amendment in light of the Court's recent decision? Here in your own State of Texas, one of your most cherished shrines is the Alamo where gallant Texans died to the last man defending their freedom. Because it bears a cross over the door will the litigious minority one day go into court to force Texas to dispose of this shrine?

These two suits—that involving Eugene, Oregon, and the other involving our astronauts—are typical of the unreasonable sensitivity of this litigious minority. True the First Amendment was designed to safe-guard minorities. However, as previously noted, it was intended to safeguard religious minorities. There is simply no support for the proposition implicit in the view of some pundits that its Framers conceived it to be an instrument to whipsaw the majority and to protect against imagined or abstract fears. As Mr. Justice Jackson observed some years ago: ". . . it may be doubted whether the Constitution which, of course, protects the right of dissent, can be construed also to protect one from the embarrassment that always attends non-conformity, whether in religion, politics, behavior or dress." (*McCollum* v. *Board of Education*, 333 U.S. 203, 233, 1948.)

With his usual eloquence, the late Senator Everett Dirksen, in a speech on the Senate floor in 1966, issued the following warning:

"Let these decisions stand without clarification and in due course, Christmas, Santa Claus, Christmas Carols, and everything else which has been so deeply entrenched in American religious traditions will go by the board.

"Let them stand without clarification and the oaths taken by jurors, the chaplaincies in Congress, in the Army, in the Navy, the Air Force, the Marines, and elsewhere, the Chapel in the U.S. Capitol, the oaths administered to legislators, in all of which the word "God" is used, will come under attack.

"Let these decisions stand without clarification and the work of dethroning God will go forward."

I respectfully suggest, Ladies and Gentlemen, that it is time that Congress give consideration to a Constitutional amendment along the lines championed by the late Senator Everett Dirksen. His amendment would permit restoration of reciting prayers in the public schools on a voluntary basis. I emphasize the words "permit" and "voluntary". In short, this amendment, if adopted, would neutralize, in the true sense of the term, the federal government in this one particular. States and local areas would thereafter be free to adopt school prayers as school authorities and local citizens see fit.

Professor of Law Charles E. Rice has obviously given this matter much thought. In addressing himself to the "practical benefits to be derived from a favorable resolution of the amendment question," he stated:

"The issue is, essentially, 'can government constitutionally recognize that there is a God?' Implicit in such recognition is an affirmation that there is a standard of right and wrong higher than the state itself. The child who routinely sees the agents of the government, be they teachers or presidents, affirm the existence and supremacy of God and his law over all is less likely to follow the demagogue who asserts for the state, and for himself as its oracle, the final power to ordain what is right and wrong in a matter of public or private morality. Moreover, an inculcation of mere ethical values without reference to their divine source cannot serve this purpose as well as an assertion of the supremacy of an unchanging lawgiver . . . If we are to preserve the limited government that is the hallmark of American constitutionalism, we can hardly disregard the less of history that a strong assurance against governmental abuse is a citizenry devoted to ultimate values transcending the changing will of the state . . . On Thomas Jefferson's Memorial there is inscribed his questioning warning: "God Who gave us life gave us liberty. Can the liberties of a nation be secure when we have removed a conviction that these liberties are the gift of God?"

Everett Dirksen summed up the need for prayer in our schools in a few words, as follows:

"We learned long ago that as the twig is bent, the tree is inclined. That is what prayer means in the schools. Somehow, the children must get that orientation, each according to his own lights, each according to his own view, without compulsion or coercion, all on a voluntary basis. Then I think we shall begin to see some greater hope for a placid country.

[From an editorial broadcast by WMAL, Dec. 17, 1969]

A MATTER OF TOLERANCE

This may be the last year that the nativity scene will be displayed on the Ellipse for the traditional Christmas pageant. The American Civil Liberties Union has gone to court, arguing that display of the manger scene on public property amounts to an unconstitutional establishment of religion. It is important to stress that the pageant is staged by a non-profit private corporation which obtains a permit from the Interior Department. Many private groups, such as the anti-Vietnam War protest groups with their Viet Cong flags, have obtained similar permits.

While the ACLU is challenging display of the manger scene on public property, the New Jersey ACLU is attacking the right of military authorities to ban anti-Vietnam demonstrators from handing out leaflets on the Ft. Dix, New Jersey, military reservation.

The Oregon ACLU has succeeded in having a cross taken out of a public park in Eugene, Oregon. The Iowa ACLU is defending eight Grinnell College students who undressed at a public meeting, on grounds that not allowing them to disrobe violates free speech.

The Pittsburgh ACLU is charging that a Pennsylvania School District violated the Supreme Court ban on prayer in public schools. The national ACLU is opposing Administration efforts to curb obscene mail.

The national ACLU wants church property taxed even if used for religious purposes. The national organization is, however, defending private foundations that indulge in political activity on grounds that foundations have made "an enormous contribution to our national well-being"—a compliment the ACLU apparently feels does not extend to churches.

Experience indicates that ACLU lawyers will argue fine points of law in each of these cases with admirable skill.

We believe, however, that some matters are better decided by common sense tempered with tolerance.

It would not have been fair to argue that the Rev. Dr. Martin Luther King could not speak at the Lincoln Memorial because he was an ordained minister and his appearance constituted establishment of religion. The granting of march permits to the Southern *Christian* Leadership Conference certainly did not violate the Constitution.

Tolerance in America should be measured by how great a freedom we give all our pluralistic institutions—not by how we relentlessly suppress the majority.

BY-EFFECTS OF WAR IN VIETNAM

Mr. PELL. Mr. President, one of the most harmful by-effects of the war in Vietnam is the erosion of our own standards, principles, and values.

As Mrs. Meadlo, the mother of one of the solders involved in the Songmy massacre, said:

I sent them a good boy and they sent home a murderer.

I realize all wars are corrosive, but some wars seem more so than others. And it would seem that the war in Vietnam falls into this latter category.

In this connection, I thought the enclosed sensitive and well-written editorial by Norman Cousins, editor of the Saturday Review, might be of interest to Senators. I ask unanimous consent that it be printed in the RECORD.

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

THE ROAD TO SONGMY

"I sent them a good boy," said Mrs. Anthony Meadlo, "and they sent home a murderer." The name of Paul David Meadlo, of New Goshen, Indiana, has figured in the reports of the slaughter of more than 100 Vietnamese civilians (some accounts put the number above 350) by American soldiers at a village named Songmy.

Where did the journey to Songmy begin? Did it begin only after Paul David Meadlo arrived in Vietnam? Or did it start far, far back—back to the first time Paul Meadlo played the game of killing Indians, or cheered when Western movies showed Indians being driven off cliffs? Even in some schoolbooks, the Indians were fit subjects for humiliation and sudden death. They were something less than fully human, and their pain levied no claim on the compassion of children—or even adults.

Long before Paul Meadlo ever saw a Vietnamese, he learned that people of yellow skin were undesirable and therefore inferior. He learned in his history class about the Oriental Exclusion Act, the meaning of which was that people from Asia were less acceptable in the United States than people from Europe. He learned very little about the culture of Asian people but he learned to associate them with all sorts of sinister behavior.

The road to Songmy is long and wide. It is

littered with children's toys—toy machine guns, toy flame-throwers, toy dive bombers, toy atom bombs. Standing at the side of the road are parents watching approvingly as the children turn their murderous playthings on one another. The parents tell themselves that this is what children do in the act of growing up. But the act of growing up is an enlargement of, and not a retreat from, the games that children play. And so the subconscious is smudged at an early age by bloody stains that never fully disappear.

Paul David Meadlo grew up in a little town 10,000 miles away from Vietnam; but the kind of things that were to happen in Songmy came springing to life in his living room where there was an electronic box called television. Hour after hour, the box would be lit up by pictures showing people whose faces were smashed and pulverized, but it was part of an endless and casual routine. Where did the desensitization to human pain and the preciousness of life begin? Did it begin at formal indoctrination sessions in Vietnam, or at point-blank range in front of an electronic tube, spurting its messages about the cheapness of life.

And when the court-martial is held, who will be on trial? Will it be only the soldiers who were face-to-face with the civilians they say they were ordered to kill? The Army now says soldiers should not obey commands that are senseless and inhuman. What wellsprings of sense and humaneness are to be found in the orders to destroy *whole* villages from the air? Is a man in a plane exempt from wrongdoing solely because he does not see the faces of the women and children whose bodies will be shattered by the explosives he rains on them from the sky? How does one define a legitimate victim of war? What of a frightened mother and her baby who take refuge in a tunnel and are cremated alive by a soldier with a flame-thrower? Does the darkness of the tunnel make them proper candidates for death?

Will the trial summon every American officer who has applied contemptuous terms like "gook," "dink," and "slope" to the Vietnamese people—North and South? Will it ask whether these officers have ever understood the ease and rapidity with which people who are deprived of respect as humans tend to be regarded as sub-human? Have these officers ever comprehended the connection between the casual violence of the tongue and the absolute violence of the trigger finger?

Will the men who conceived and authorized the search-and-destroy missions be on trial? Search-and-destroy quickly became destroy first and search afterward. How far away from unauthorized massacre is authorized search-and-destroy?

Will the trial ask why it was that the United States, which said it was going into Vietnam to insure self-determination, called off the countrywide free elections provided for in the 1954 Geneva Agreements—after which call-off came not just Vietcong terror but the prodigious growth of the National Liberation Front?

Will the trial ask what role the United States played in the assassination of President Ngo Dinh Diem? Will it ask how it was that political killing and subversion, which had always been regarded as despicable actions perpetrated by our enemies, should have been made into practices acceptable to the United States?

Will there be no one at the trial to explain why the negotiations at Paris were deadlocked over the shape of the table for six weeks—during which time five thousand Americans and Vietnamese were killed? If the men at Paris had been able in advance to see the faces of those who were to die, would this have made them responsible for the dead?

There is a road back from Songmy and Vietnam. It is being traveled today by the American soldiers who gave their Thanksgiving dinners and regular rations to the Vietnamese, and who in deed and attitude have made themselves exemplars of a creatively humane presence. There are doctors and teachers and volunteers on this road who comprehend the possibilities and power of regeneration. But their numbers need to be swelled to bursting in order to begin to meet the need.

It is a long road back, not just for the soldiers who were there but for all of us who showed them the way to Songmy.—N.C.

RECESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate stand in recess until 3 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Thereupon (at 1 o'clock and 14 minutes p.m.), the Senate took a recess until 3 p.m. today.

The Senate reconvened at 3 p.m. when called to order by the Presiding Officer (Mr. MATHIAS in the chair).

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States withdrawing the nomination of Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary to the Kingdom of Morocco, was communicated to the Senate by Mr. Leonard, one of his secretaries.

RECESS

Mr. KENNEDY. Mr. President, if there is no immediate business, I move that the Senate stand in recess until 3:30 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Thereupon (at 3 o'clock and 1 minute p.m.) the Senate took a recess until 3:30 p.m. today.

The Senate reconvened at 3:30 p.m. when called to order by the Presiding Officer (Mr. MATHIAS in the chair).

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 amendments of the Senate to 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; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PASSMAN, Mr. ROONEY of New York, Mrs. HANSEN of Washington, Mr. COHELAN, Mr. LONG of Maryland, Mr. MCFALL, Mr. MAHON, Mr. SHRIVER, Mr. CONTE, Mrs. REID of Illinois, Mr. RIEGLE, and Mr. BOW were appointed managers on the part of the House at the conference.

The message also announced that the House had passed a joint resolution (H.J. Res. 1040) extending the time for filing the Economic Report and the report of the Joint Economic Committee, in which it requested the concurrence of the Senate.

THE TAX BILL

Mr. LONG. Mr. President, I am informed that the House has agreed to the conference report on the tax-reform bill and that the papers will come to the Senate very shortly. That being the case, I think I shall present a statement on the conference report at this time and call up the conference report when it arrives.

Shortly after this session of the Congress began, the hue and cry for tax reform reached its peak. The Congress responded in full. It has taken this entire session for both Houses of the Congress to complete action on this bill. Although a year may seem like a long period of time, it is incredible that a bill so comprehensive has been completed in the space of 1 year.

The usual course on a measure of this sort is for the House to pass it one year and for the Senate to pass it the following year. Considering the fact that this is virtually a redrafting of the Internal Revenue Code as far as income taxes are concerned, as well as a major social security bill, as well as extension of major excise taxes, one may say that Congress has acted in about one-half the time it normally would take for a revenue bill of this breadth and significance.

In discussing the conference report, I want to direct your attention initially to the tax-relief provisions and the fiscal implications of the bill.

As all Senators know, the bill which the Senate passed increased personal exemptions from $600 to $800. I fought hard for the Senate provision, as that was my responsibility as a Senate conferee, even though I voted against the proposal in the Finance Committee and on the Senate floor.

The Senate conferees prevailed at the end, and the conference agreed to raising the personal exemption to $750. I am proud to say that we were able to retain three-quarters of the Senate-approved $200 increase. In achieving this result, the conference significantly shifted the major share of tax relief to the low- and middle-income taxpayers. The conference bill distributes 87 percent of the net tax reduction to the income levels below $15,000. Actually, because of other features, this gives a slightly larger share of the net tax reduction to those taxpayers than the 85.9 percent provided in the Senate bill.

The major share of the credit for our success in retaining this provision belongs to the senior Senator of Tennessee, my good friend, ALBERT GORE. He introduced the provision for an $800 exemption during the Finance Committee's executive session, where he lost by a tie vote. Then he brought it to the Senate floor where his powers of persuasion convinced a majority of Senators to put the provision in the bill. In the conference, he directed his persuasive powers to the

House conferees, and he won them over to his side.

The Senate conferees did agree to a slower rate of increase in the exemption. This concession, however, was made in the face of the obvious fiscal needs of the Federal Government. The Senate conferees saw no choice other than spreading the increased personal exemption more gradually over a 4-year period.

The theme of fiscal responsibility dominated the discussion. It was vitally important that the conference produce a bill that showed surpluses in the first 2 years and as small a deficit as possible in the third year. Those years are critical in the fight against the inflationary pressures that still persist in the economy.

The fiscal responsibility in the conference agreement is evident if the Senators examine the figures. In the conference bill, there is a net surplus of $6.5 billion in 1970. This is the result of the tax-reform provisions, the extension of the income tax surcharge and excise taxes, and moderation in the amount of tax relief provided in 1970. Even in 1971 there is a surplus of some $293 million. While this may be a small surplus, it is a significant revision from the $4.8 billion deficit in 1971 in the bill passed by the Senate. Although the bill still shows a deficit in 1972 of $1.8 billion, this too is a substantial reduction from the $6.3 billion deficit in the Senate bill.

Another measure of the substantial degree of fiscal restraint represented in the conference bill can be seen by comparing it with the administration's program presented by the Secretary of the Treasury to the Finance Committee this fall. The administration's proposals showed a net surplus of $7.1 billion for 1970; the $6.5 billion in the conference report comes close to this, representing a difference of less than $600 million. In 1971, the Secretary's program showed a net surplus of $615 million, while the conference bill has a net surplus of $293 million—a difference of only $322 million.

The most significant fact, however, is the comparison of the figures for 1972. The conference report actually shows a deficit of $1.8 billion in 1972, which is $480 million below the $2.3 billion deficit in the administration's proposals. This means for the 3-year period the difference in the fiscal impact of the conference report and the administration's proposal is less than $500 million.

Let me turn now to a brief examination of the major relief provisions in the conference agreement. The Senate bill provided a minimum standard deduction that would become a flat $1,000 per tax return in 1971. That is also the final level reached in the conference report.

The Senate bill also assured that single persons would pay an income tax no more than 20 percent above the tax paid by a married couple with the same taxable income. That, too, the Senators will find in the conference report.

One feature of the House bill carried over to the conference agreement was an increase in the standard deduction that reaches its maximum level in a 3-year period. This was removed by the Senate when it adopted the Gore amendment without much specific consideration. The discussion at that time was largely on the question of the relative merits of the personal exemption increases and the rate cuts.

Actually, this provision complements the $750 personal exemption and $1,000 minimum standard deduction in simplifying the filing of an income tax return by taxpayers with relatively low incomes. Presently, many of these taxpayers find it necessary to go through the laborious process of keeping records to itemize their deductions. A standard deduction of 15 percent, with a ceiling of $2,000, coupled with the minimum standard deduction, means that many taxpayers will be able to shift to the simpler standard deduction—some 11 million taxpayers.

For the relatively small additional revenue cost of $1.6 billion, it will be possible under these provisions for us to increase from 58 percent to 73 percent the portion of our taxpayers using the simple standard deduction.

The final feature of the conference agreement in the area of tax relief may be viewed by some with mixed feelings. However, the House conferees were insistent on the adoption of the maximum tax rate on earned income that was in the House bill and which had been deleted by the Finance Committee. They viewed it as essential, in view of the absence of all other rate reductions. Senators should note, however, that this is substantially different from the House version, since the income subject to this preference is reduced by all of a taxpayer's tax preferences over $30,000.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13270) to reform the income tax laws.

The message also announced that the House had passed a bill (H.R. 15071) to continue for 2 additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were signed by the Acting President pro tempore:

S. 65. An act to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to Emogene Tilmon of Logan County, Ark.;

S. 80. An act to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to Enoch A. Lowder of Logan County, Ark.;

S. 81. An act to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to J. B. Smith and Sula E. Smith, of Magazine, Ark.;

S. 82. An act to direct the Secretary of Agriculture to convey sand, gravel, stone, clay, and similar materials in certain lands to Wayne Tilmon and Emogene Tilmon of Logan County, Ark.

S. 2325. An act to amend title 5, United States Code, to provide for additional positions in grades GS–16, GS–17, and GS–18; and

S.J. Res. 154. Joint resolution to authorize and request the President to proclaim the month of January 1970 as "National Blood Donor Month."

TAX REFORM ACT OF 1969—CONFERENCE REPORT

Mr. LONG. Mr. President, I submit a 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. 13270) to reform the income tax laws. 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.

(For conference report, see House proceedings of today p. 40767.)

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. LONG. Moreover, there are characteristics of the maximum tax that even the most robust tax reformer should admire. By limiting the maximum tax rate applied to earned income to 50 percent—beginning in 1972—the high-income taxpayer who is willing to forego the benefits of tax preferences, is encouraged, as his income rises, to continue devoting his energies to productive pursuits—rather than to a search for tax shelters—by the opportunity to retain half of his earned income. The Senate conferees were persuaded that this provision would substantially decrease the inducement for these taxpayers to waste their energies in seeking tax shelters.

Let me turn now to the tax reform measures which after all took most of the time in conference. The conferees spent about 45 hours in conference last week—including one session which began at 9:30 in the morning and lasted until 3 a.m. the next morning. About 40 of those hours were devoted to the tax reform provisions. I want to discuss now with the Senators the major features of the compromises we ironed out in these areas.

In the private foundation area, most of the Senate measures were preserved. First, the conference preserved the Senate provision requiring foundations to pay out annually an amount equal to at least 6 percent of the value of their assets.

Second, the House bill contained strict stock divestiture rules that applied to existing foundations as well as those established in the future. The Senate amendment, however, reduced the severity of the rules that applied to existing foundations, and the conference retained much of the Senate rules in this respect.

Both the Senate and the House bills levied taxes on foundations, the Senate primarily to defray the costs of annual audits of foundations and their activities. The purpose of the audit is to assure that all foundations, without exception, act in conformance with their ex-

empt purposes. The audit-fee tax of the Senate bill after the first year would have equalled about 2 percent of investment income. The House, on the other hand, would have imposed a 7½-percent tax on foundation income. Obviously, they were interested in something more than an audit-fee tax. The conference agreed upon a 4-percent excise tax measured on income which is much closer in this respect to the Senate version than to the House version.

In the area of charitable contributions, the Senators will be glad to learn that the Senate conferees succeeded in preserving the Senate provisions relating to gifts of tangible personal property to such exempt organizations as museums. The House bill would have taxed the appreciated value of such gifts as paintings, art objects, and collections of books, and as a result would have substantially discouraged them. The House receded with respect to this provision with an amendment limiting the gifts qualifying in this manner to those related to the exempt function of the donee institutions.

In the area of charitable contributions of estates and trusts, the Senate conferees also prevailed with respect to virtually all of the Senate amendments. These amendments restored the deduction for income of trusts and estates set aside for charity. They also restored the deduction for investment pool arrangements under which the public charity pays the donor the income attributed to the value of the contribution for his life so long as the pool accumulates capital gains for the benefit of charity.

In the area of farm losses, the Senate conferees prevailed with respect to all but one of the amendments on this subject. Under firm resistance from the House conferees, the Senate conferees agreed to the House provision that requires an excess deductions account for farm losses in excess of $25,000 for taxpayers who receive more than $50,000 of nonfarm income. The House conferees preferred their provision because it makes the full deduction available currently and only later converts capital gains into ordinary income. I am sorry we did not prevail on this because I think we had the simpler and more logical provision, but we can consider reviving this in the future.

The Senate deleted from the House bill a provision that would have limited the deduction for interest expenses to an amount equal to the sum of the taxpayer's net investment income, long-term capital gains and an additional $25,000. The House conferees were quite insistent on this provision, so we had to compromise our differences. Instead of being denied the interest expense deduction when it exceeds the limit placed in the House bill, the taxpayer will continue to be able to deduct 50 percent of this excess. Moreover, this does not go into effect until after 1971. The conferees also agreed to other ameliorating amendments in this area.

The Senate minimum tax provision was preserved largely intact. Only minor modifications were made. I am glad to say the House receded from its complicated proposals for a limit on tax preferences and allocation of deductions. The conference accepted a tax of 10 percent on income preferences reduced by a $30,000 exemption and Federal taxes.

As to the tax preferences under this tax, they are largely the same as under the Senate bill. We did make some improvements, however. Interest expenses in excess of net investment income, for example, will be removed from the tax preference base in 1972 when the limit on the deductibility of the interest expense goes into effect. Accelerated depreciation on net leases will not be a tax preference item for corporations, but it will continue in the preference income base for individuals. Intangible drilling expenses also were deleted from the base for the minimum tax, but the excess of depletion over cost remains as a source of preference income. The seven other items in the Senate base for the preference income tax were accepted by the conference.

In the general area of capital gains, the Senate conferees preserved most of the Senate's provisions. We refused to go along with any extension of the holding period and preserved an important part of the alternative tax. We yielded some ground in this area but the conference report keeps the 25-percent alternative rate for the first $50,000 of capital gains. Moreover, by going along with the House and including capital gains in income averaging, we prevented much of the hardship which can arise where large amounts of capital gains are realized in single year.

The Senate and the House tightened the provisions relating to accumulation trusts, and I think it is safe to say they no longer will be useful instruments for tax avoidance. Probably most important, the amendment added by the Senate was preserved; namely, that relating to capital gains although it was necessary for us to yield on the interest charge on deferred tax payments.

Controlled groups of multiple corporations also lose their opportunities for tax avoidance through multiple use of surtax exemptions. The major differences between the Senate and House bills were the length of the transition period affecting the elimination of the surtax exemption. This difference was compromised, and the transition period will begin in 1970 and end in 1975—1 year later than provided in the Senate bill.

In the area of corporate mergers, the Senate modified considerably the harsher aspects of the House provision. The Senate conferees did recede with respect to the House provision that would disallow the interest deduction when the ratio of debt to equity of the acquiring corporation is more than 2 to 1 and where earnings are not expected to be at least three times the annual interest expense. However, the earnings to interest ratio rule was modified to recognize the fact that interest charges can be paid out of depreciation charges as well as earnings. Moreover, the Senate amendments to the remaining provisions in the section on corporate mergers were preserved.

The House provision on the taxation of stock dividends was retained. Transitional rules are available under limited conditions but a corporation will not lose the benefit of these rules if it issues any type of stock under a conversion right contained in other stock which it was permitted to issue under these rules.

The subject of foreign tax credits also was one of the difficult ones for the conferees to resolve. However, the Senate conferees succeeded in retaining the more important provision—one that continues the offset of losses incurred abroad against domestic income. The conference did, however, comprise the provision regarding excess foreign tax credits arising from depletion deductions. The new provision contains most of the characteristics that the Senator from Wisconsin (Mr. PROXMIRE) sought to introduce with his floor amendment.

Financial institutions represented another area of compromise. The Senate provision that reduced the reserves for bad debts of commercial banks to 1.8 perment of eligible loans was preserved for the first 6 years. After that time, the level provided by the House bill will be reached in two steps at 6-year intervals. As a result, only after 18 years will the commercial banks be required to base their reserves upon their actual experience. The gradual transition certainly should allow commercial banks to adjust to the treatment generally applicable to other taxpayers without disruption to their activities.

Additions to bad debt reserves of mutual savings banks and savings and loan associations also were revised, and the conference agreement here, too, reflects a compromise position. Both types of savings institutions will be required to compute their allowable bad debt reserve as a percentage of taxable income. Present law permits a reserve based on 60 percent of taxable income, and the conference reduced this percentage to 40 percent which must be reached gradually over a 10-year period. The Senate had reduced the percentage to 50 percent over 4 years and the House to 30 percent in a 10-year period. Both versions of the bill eliminate the choice of computing the bad debt reserve as 3 percent of qualifying real property loans.

Both versions of the bill terminate the present treatment of capital gains and losses on bonds held by financial institutions after transition periods of different lengths. The conferees found a compromise position that provides a significantly more desirable transition procedure. Present law will apply to capital gains and losses on bonds that accrued between the time of acquisition and the effective date of the provision. This portion of the capital gain will be measured as the proportion that the time between acquisition date and effective date is of the time between acquisition date and date of maturity. The portion of capital gains and losses that accrue after the effective date will be treated as ordinary income.

The Senate conferees preserved the essential feature of the Senate version of the bill as it affects the depreciation allowed regulated industries. The Senate bill would permit a regulated utility to

shift to straight-line depreciation, or possibly normalization from the flow-through method of depreciation for all its facilities without permission of the utility within 180 days after enactment. The conference report accepts that principle but applies it only to new facilities that increase the capacity of the utility to serve its customers. All but one of the remaining Senate amendments were preserved.

In the area of percentage depletion, as Senators might suspect, there were problems in resolving our differences. At the end, I think, the Senate conferees succeeded in preserving the major characteristics of the natural resource provisions of the Senate bill. Apart from oil and gas, which were reduced from 27½ percent to 22 percent, the conference reduced percentage depletion rates in two categories by only 1 percentage point. All the others remained unchanged. Natural resources which presently receive a 23-percent depletion allowance will receive a 22-percent depletion allowance in the future. Oil and gas wells now are also included in this category. The conference also restored the 22-percent depletion allowance for foreign deposits of oil and gas.

Minerals presently receiving a 15-percent depletion allowance will be reduced to 14 percent, except for five minerals where the depletion rate was not in conference because the House had earlier decided that these possessed certain critical characteristics. These are gold, silver, oil shale, copper, and iron ore from domestic deposits.

The House conferees also agreed to the Senate provision permitting percentage depletion on minerals taken from saline perennial lakes—but of course do not intend that any inference as to present law be drawn from this action.

The Senate conferees did, however, yield on the two Senate amendments which would have increased the 50-percent income limitation for gold, silver, and copper to 70 percent and to 65 percent for relatively small-scale producers of oil and gas. The Senate conferees regretted having to recede with respect to these provisions, but the House members were unwilling to raise the net income limitation above 50 percent.

The House conferees insisted on taxing distributions from qualified pension plans as ordinary income to the extent they represented compensation paid directly by the employer. An averaging provision was restored to the bill, however, that permits averaging over a 7-year period of the portion of the distribution subject to taxation. Actually, the pensioner with modest distributions will find his taxes reduced below present law treatment.

The floor amendments by Senators SPARKMAN and TOWER with respect to real estate depreciation were the major ssues in conference in the area of depreciation. While the Senate conferees found it necessary to accept modifications of these amendments, they preserved the significant provisions that it is hoped will encourage increased investment in housing. The conference report allows 125 percent declining balance depreciation on used residential housing with a remaining useful life of 20 years or more. Where the House bill provides for full recapture of the excess of accelerated depreciation over straight-line depreciation with respect to all real property, the Senate conferees limited the recapture on residential property that has been held more than 100 months.

The Senate's recognition of the present critical state of the municipal bond market prevailed in the conference. The House with considerable reluctance receded from its provision for a subsidy on the voluntary issue of taxable bonds by State and local governments. In order to avoid further upsets in the municipal bond market, the conference also agreed to delete the provision that requires persons who receive interest on tax-exempt bonds to file an information return. The conference also preserved the Senate version of the provision relating to arbitrage bonds, with only a minor amendment.

In the conference, the House conferees refused to consider any exceptions to repeal of the investment credit. They insisted that the repeal be absolute and further objected on the grounds that the floor amendments by Senators HARTKE and STEVENS would lose too much revenue at a time when revenue is critical for the anti-inflationary policy.

The Senate conferees preserved all but one of its transition amendments, however. Instead of the House provision which decreases the investment tax credit on a month-by-month basis for equipment placed in service after 1971, the conference provides that the credit will be available for eligible property placed in service before 1976 without this phaseout.

All of the four provisions providing for rapid amortization were preserved. The Senate versions of the amortization of pollution control facilities was accepted by the conference without amendment. The 5-year amortization for the railroads also was changed significantly by the Senate but was accepted with only one amendment; namely, that limiting 50-year amortization to expenses for railroad grading and tunnel bores incurred on or after January 1, 1969. The rehabilitation expenditures for housing had not been changed by the Senate. Senator COOPER'S floor amendment to provide 5-year amortization for certified coal mine safety equipment was incorporated into the conference bill with a termination date of January 1, 1975.

Senators will remember that many floor amendments were added to the bill. The Senate conferees were successful in preserving many of them—in fact, an unexpectedly large number. There are too many to be discussed separately, so I shall try only to highlight a few of them.

Many of the additional income tax provisions also were accepted, but unfortunately several with substantial merit could not be preserved because they would have increased the revenue loss in the bill far beyond responsible limits. Among the provisions deleted for this reason were the removal on deductions for medical expenses and medicines for taxpayers 65 years or over and the tax credit for college tuition and fees. The provision for deduction of transportation expenses of the handicapped was deleted because the conferees were given information that State rehabilitation agencies are starting programs to meet these problems. The Senate provision to put an end to the ability of corporations to engage in tax-free exchange of appreciated property for their own stock and our provision in general was preserved.

Furthermore, we were successful in having the amendments by the Senate making the Tax Court a legislative court and authorizing a small claims division in the Tax Court retained without amendment. This is something for which many of us have fought long and hard.

Authorization for the President to impose import quotas and other nontariff limitations on imports from countries that discriminate against U.S. exports was deleted from the bill. The House conferees insisted that this provision was not germane to the objective of tax reform, and stated that the subject will be considered by the Ways and Means Committee when other legislation dealing with tariffs and import legislation is being considered.

The conferees agreed to a 15-percent social security benefit increase with a $64 minimum benefit, compared to a $100 minimum benefit in the Senate bill. The increase would be effective January 1970, but because of the time required to process the increase, the first check with the higher amount will be sent early in April. Another check mailed in April will include the increases not included in the earlier checks.

The House was adamant in its refusal to accept the $100 minimum benefit we voted on in the Senate. They explained that they intended to consider this matter along with many other proposals affecting the social security program as their first order of business during the next session of Congress. For the same reason, they refused to accept the Senate amendment to lower from 62 to 60 the age of eligibility for social security benefits following a Presidential proclamation.

We were able to get the House conferees to agree to important provisions, based on a Senate amendment, which will insure that those social security beneficiaries who also receive public assistance will get some benefit from the social security increase. About 1.4 million welfare recipients also receive social security benefits.

First, the conferees agreed to require States, in determining need for welfare, to disregard the retroactive social security increase check mailed to beneficiaries in April.

Second, the States will be required, in determining need for welfare payments to the aged, blind and disabled, to disregard $4 of the social security increase during April, May, and June 1970. This will allow time for the Congress to consider more comprehensive changes in the welfare programs.

Under the conference agreement, almost all States will realize sufficient welfare savings from the social security

increase to raise payments to assistance recipients who do not get social security by $4 a month. The conferees would hope that all States would do so.

Mr. President, this completes the summary of the conference report. It has been long, but this is inevitable when we are considering the most important tax bill in the decade. In my opinion, this is a fine bill and it represents comprehensive tax reform. Hardly a major tax preference remains untouched. Interest income from tax-exempt municipal bonds is the only exception, but in the case of this provision other serious considerations are involved.

Congress began this session intent upon tax reform. That objective has been realized. I urge the Senate to adopt this conference report.

I want to pay my highest respect to the Senators who served as conferees on this important tax reform bill. They defended the position of the Senate vigorously, and on those occasions when we had to recede, it was generally done reluctantly.

The major amendment in conference, as well as a number of others are properly referred to as the Gore amendments. So much so that it would be fair to refer to the Senate version of the bill as the Gore bill. His approach of cutting taxes by increasing the personal exemption rather than by reducing rates was accepted by the House conferees. Most of the Gore amendment remains in the conference report. Knowing as I do how jealously the House conferees look after House amendments in our conferences with them, I can appreciate more than most people how significant it was that no serious thought was given to reviving the House approach of tax reductions through rate changes.

The junior Senator from Georgia (Mr. TALMADGE) was particularly helpful and persuasive in resolving most of the more difficult problems in the bill. His contribution is always significant, whether it comes on the Senate floor or in committee sessions. He is an invaluable asset to the committee.

I regret that Senator ANDERSON, who was named as a conferee on this bill, was ill and unable to attend the conference. However, he was consulted with respect to a number of compromises being worked out, and he advised me that he approved of the conference agreement that was worked out.

Senator ANDERSON has always been a stalwart in our conferences, and I must say that I personally missed him very much this year. I am pleased that he has endorsed the conference agreement that we have before us today.

I would be remiss if I failed to recognize the tremendous contributions of the senior Senator from Utah (Mr. BENNETT). Senator BENNETT led the Senate Republican Members in conference, and I might say that without his excellent cooperation, it would not have been possible for us to get this conference report back to the Senate in a single week. Senator BENNETT was always well prepared to deal with every problem raised in the conference, and he dealt with them in the best tradition of Senate conferees.

I want to also applaud the tremendous effort by the Senator from Nebraska (Mr. CURTIS), and the Senator from Iowa (Mr. MILLER). They approached their work on this conference with a dedication unmatched by new conferees on a major tax bill at anytime in my recollection. Time and again they added materially to the discussions on the various provisions of this most intricate bill, and I might say that the bill we have before us today is a better bill because of their contributions. In addition, I must note the importance of the efforts of Senator MILLER to make the minimum tax more equitable. That the bill presently contains a minimum tax. His suggestion was a substantial improvement of the minimum tax as originally reported.

It has been a long time since I have seen Senate conferees stand as united as this group of conferees did on the tax reform bill. The Senate can and should be very proud of the work that they did and of the compromise that they have worked out.

Mr. BENNETT. Mr. President, the latest program of tax reform and tax reduction has now come to the Senate for what I am sure will be the last and final step in a process that began more than a year ago in the House. I hope the Senate will take that step by approving the conference report now before us and do it without prolonged debate.

This bill, like every other major tax legislation, has certain inevitable weaknesses.

First, it does not create even-handed equity for every taxpayer—no tax bill ever does—and if that ideal could conceivably be met for the day a new tax law went into effect, its equality would soon break down under the pressure of economic change and the ingenuity of smart tax lawyers.

This is a "Robin Hood" bill—it takes from the rich and gives to the poor, with the middle income groups, as usual, in the middle. It accomplishes the seemingly impossible when it increases the benefits to the unmarried taxpayer, and to the one with a large family at the same time. By increasing the standard deduction, it gives a bigger tax break to the person who avoids home and community responsibility and who makes no actual deductible contributions rather than to encourage home ownership and charitable generosity. Its tax reductions benefiit the consumer while some of its tax reforms penalize the investor and producer who supply the jobs on which the consumers support themselves.

But these inequities were not the product of the conference. In some form or other these were built into the bill in the earlier legislative steps and particularly by what the Senate did to it here on the floor. The conference version now before us is much better balanced than the Senate bill—thank heaven.

Second, all of us should be deeply concerned about the potential effect of the final tax bill and the current fight to control inflation—particularly in the near future.

In September, when the Senate Finance Committee began its work, Treasury asked for a bill that would produce $3.1 billion new revenue for fiscal 1970. This bill, which will produce $2.1 billion, will be $1 billion short. But the Senate-passed bill would have been $4 billion short and created a critically dangerous inflationary force.

The Treasury's September recommendations would have led to a half-million deficit for fiscal 1971. That year's deficit under the Senate's version would have been $8.3 billion—and made further inflation almost irresistible. The 1971 shortfall, under the conference bill, is estimated to be $2 billion—large, but livable.

When we look at 1972, the Treasury's expected September deficit of $6.5 billion is slightly higher than the conference version's $6.1 billion, but only half as much as the Senate estimated loss of $12.9 billion.

By the end of fiscal 1972, the Treasury was prepared for a net shortfall of $3.9 billion. The Senate-passed bill would have increased that more than five times, to $22.1 billion. The conference bill holds it to $6 billion—an increase of 50 percent instead of the 350 percent in the Senate-passed bill.

All the figures I have quoted include the social security increase, and are Treasury estimates which take into account the growth in the economy. In this respect, they differ from the figures in the report which do not take growth into account. Estimated on the no-growth basis, the 3-year effect of the conference bill would be a revenue plus of a little less than $5 billion—as against a revenue loss of a little more than $8 billion for the Senate bill.

To restate the differences as totals for the 3-year period 1970 to 1972, inclusive—when growth is not considered—the Senate bill would have produced about $14 billion less than the conference bill. With the Treasury's growth estimate included, the difference would rise to about $16 billion, but either loss of revenue would have had catastrophic results.

The chairman, the Senator from Louisiana (Mr. LONG), has given us an excellent general overview of the features of the conference bill so there is no need for me to add to his presentation, except to make the obvious comments that some taxpayers will think it is better than the House or Senate bills. Others will think it worse. Because the Finance Committee held hearings on the House bill, it was able to write many amendments which strengthened and clarified the intent of the House bill. The conference kept nearly all of these amendments. On differences of broad policy, the inevitable conference process of adjustment and compromise operated and the resulting revenue pattern shows that here the House prevailed more often than the Senate.

But, most important of all, most of the more than 50 hours of conference were marked with earnest objectivity whose value in the long run may temper the political motivations that seem to be inescapable even in a tax bill.

Even though every one of us can find things in this bill he does not like and, therefore, can rationalize a vote against the report, each of us can also find off-

setting proposals he can support. For me, the positive values overbalance those I would criticize, and I will vote for the bill, knowing that this is not the first tax bill the Congress has considered nor will it be the last.

The things in the bill which we do not like and which some of us feel may turn out to be serious and dangerous policies will probably be the reason for the next tax-reform bill somewhere down the road.

I hope that my colleagues will take the same position so that the report can be adopted quickly.

S. 3287—INTRODUCTION OF A BILL AMENDING THE MERCHANT MARINE ACT OF 1936

Mr. MAGNUSON. Mr. President, I ask unanimous consent that I may introduce a bill out of order and that my remarks on the bill appear in the RECORD after the discussion being had on the floor on the tax conference report so that they will not interrupt the continuity of the RECORD.

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

Mr. MAGNUSON. Mr. President, by request of the Secretary of Commerce, I introduce for appropriate reference, for myself, the Senator from New Hampshire (Mr. COTTON), and the Senator from Louisiana (Mr. LONG), a bill to amend the Merchant Marine Act, 1936.

This is a bill to revitalize our U.S. merchant marine, a goal toward which many of us have worked for years. The administration had assured us that the bill would be presented by late last summer. Although that time has passed, I am pleased that it has finally been presented during this session, though, of course, it is too late for any legislative action to be taken this year.

Mr. President, this points up some of the problems we have had. We have been waiting for a merchant marine proposal from the administration since last year, and here it is. I am hopeful that we can move expeditiously on this urgent matter in the new year.

I ask unanimous consent that the bill, the letter of transmittal from the Acting Secretary of Commerce to the President of the Senate, and the accompanying section-by-section analysis and comparative text be printed in the RECORD.

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

The bill (S. 3287) to amend the Merchant Marine Act, 1936, introduced by Mr. MAGNUSON, for himself, and other Senators, by request, was received, read twice by its title, and referred to the Committee on Commerce, as follows:

S. 3287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Merchant Marine Act, 1936 (46 U.S.C. 1101), is amended by striking out of subdivision (a) the words "service on all routes" and inserting in lieu thereof the word "capacity".

SEC. 2. Section 210 of the Merchant Marine Act, 1936 (46 U.S.C. 1120), is amended by striking out of paragraph First the words "service on all routes" and inserting in lieu thereof the word "capacity".

SEC. 3. Section 211 of the Merchant Marine Act, 1936 (46 U.S.C. 1121), is amended as follows:

(1) By redesignating subsections (b), (c), (d), (e), (f), (g), (h), and (i), as subsections (c), (d), (e), (f), (g), (h), (i), and (j) respectively.

(2) By inserting a new subsection (b) to read as follows:

"(b) The bulk cargo carrying services that should, for the promotion, development, expansion and maintenance of the foreign commerce of the United States and for the national defense or other national requirements be provided by United States flag vessels whether or not operating on particular services, routes or lines."

(3) Redesignated subsection (c) is amended by inserting at the end thereof, immediately before the semicolon, a comma and the words "or which should be employed to provide the bulk cargo carrying services necessary to the promotion, maintenance, and expansion of the foreign commerce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route or line."

SEC. 4. Redesignated subsection (e) of section 211 of the Merchant Marine Act, 1936, is amended as follows:

(a) By striking out the words "in particular services, routes, and lines".

(b) By striking out the words "service, route, or line" and inserting in lieu thereof the word "vessel".

SEC. 5. Section 501 of the Merchant Marine Act, 1936 (46 U.S.C. 1151), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out the words "Any citizen of the United States" and inserting in lieu thereof the words "Any shipyard in the continental United States of America."

(b) By striking out subdivision (2) up to the final word "and", and redesignating subdivision (3) as subdivision (2).

(c) By striking out of subdivision (2) the words "to replace worn-out or obsolete tonnage with new and modern ships, or otherwise".

(d) By striking out of subdivision (2) the words "The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price shall not restrict the lawful or proper use or operation of the vessel except to the extent expressly required by law".

(e) By the insertion of a new sentence at the end of subdivision (2) to read as follows: "The Secretary of Commerce may give preferred consideration to applications that will tend to reduce construction-differential subsidies and that propose the construction of ships of high transport capability and productivity."

(2) Subsection (c) is amended by inserting in the first sentence after the words "Any citizen of the United States" the words "or any shipyard in the continental United States".

(3) By inserting a new subsection (d) to read as follows:

"(d) Whenever a construction-differential subsidy is paid for the construction, reconstruction or reconditioning of a vessel under this title V the Secretary of Commerce may require that such new vessel or reconstructed vessel shall be operated only on certain services, routes or lines or in certain bulk cargo carrying services and that the operator shall be approved by the Secretary of Commerce. Such requirements shall run with the title to the vessel and shall be binding on all owners thereof. Upon application of the owner, the Secretary may from time to time modify or rescind such requirements."

SEC. 6. Section 502 of the Merchant Marine Act, 1936 (46 U.S.C. 1152), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out of the first sentence the words ", on behalf of the applicant,".

(b) By striking out of the second sentence the words "if such approved bid is accepted by the applicant, the Commission is authorized to".

(c) By striking out of the last sentence the words "with the applicant for the purchase by him" and inserting in lieu thereof the words "for the sale" immediately prior to the words "of such vessel" and by inserting after the words "upon its completion" a comma and the words "to a citizen of the United States, if the Secretary of Commerce determines that such citizen possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessel."

(2) Subsection (b) is amended as follows:

(a) By striking out of the first sentence the words "the construction of the proposed vessel", and inserting in lieu thereof the words "the construction of that type vessel".

(b) By the insertion after the first sentence of subsection (b) of three new sentences to read as follows: "The Secretary shall recompute such estimated foreign cost periodically, as necessary. Between recomputations the construction-differential subsidy shall be based on such estimated foreign cost, adjusted for the increases or decreases in labor and material costs. Such adjustments shall be based on the most reliable, available statistics showing such increases or decreases."

(c) By striking out of the next to the last sentence the words "in any case" and "the foregoing applicable percentages of such costs" and inserting in lieu thereof the words "the following percentages: in fiscal year 1971, 45 per centum; in fiscal year 1972, 43 per centum; in fiscal year 1973, 41 per centum; in fiscal year 1974, 39 per centum; in fiscal year 1975, 37 per centum; in fiscal year 1976 and thereafter 35 per centum,".

(d) by inserting in the next to the last sentence after the words "the Secretary may negotiate" the words "with any bidder, whether or not such bidder is the lowest bidder" and a comma; by striking out the words "on behalf of the applicant" and inserting in lieu thereof the words "with such bidder, not withstanding the provisions of section 505 with respect to competitive bidding,"; and by inserting before the words "or less" at the end of the sentence a comma and the words "or as close thereto as possible" and a comma.

(e) By inserting after the next to the last sentence the following new sentence: "Commencing with the fiscal year 1972 no construction contract requiring a construction differential in excess of the applicable percentages set forth in the preceding sentence shall be entered into unless the Secretary shall have given due consideration to the likelihood that the above percentages will not be attained and that the commitment to the ship construction program may not be continued. If the Secretary of Commerce enters into such a contract, he shall notify the Commission on American Shipbuilding of such contract and the Commission on American Shipbuilding shall, not later than six months after such notification, submit its report on the American shipbuilding industry."

(3) Subsection (c) is amended as follows:

(a) By inserting after the third word the words "of sale".

(b) By striking out the word "applicant" wherever it appears, and inserting in lieu thereof the word "purchaser".

(c) By striking out of the third sentence the words "at the rate of 3½ per centum per annum".

(d) By striking out of the third sentence the words "applicant's purchase" and inserting in lieu thereof the words "purchaser's portion of the".

(e) By striking out of the third sentence the word "applicant's" and inserting in lieu thereof the word "purchaser's".

(f) By inserting in the third sentence, immediately before the period at the end thereof, the words "at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of one per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs".

(g) By striking out of the last sentence the words "of 3½ per centum per annum" and inserting in lieu thereof the words "per annum applicable to payments that are chargeable to the purchaser's portion of the price of the vessel".

(4) Subsection (e) is amended as follows:

(a) By striking out of the first sentence the words "the applicant" and inserting in lieu thereof the words "a citizen of the United States".

(b) By striking out of the third sentence the words "an applicant" and inserting in lieu thereof the words "a citizen of the United States".

(5) Subsection (f) is amended as follows:

(a) By striking out the word "applicant" wherever it appears and inserting in lieu thereof the word "purchaser".

(b) By striking out of the fourth sentence of the second paragraph the words "on any" and inserting in lieu thereof the words "in an".

(c) By striking out of the fourth sentence of the second paragraph the words "of the operator".

(6) Subsection (g) is amended, as follows:

(a) By striking out of the first sentence the word "agreement" and inserting in lieu thereof the word "application".

(b) By striking out of the first sentence the words "an applicant under this title" and inserting in lieu thereof the words "any citizen of the United States".

SEC. 7. Section 503 of the Merchant Marine Act, 1936 (46 U.S.C. 1153), is amended as follows:

(1) By striking out the word "applicant" wherever it appears and inserting in lieu thereof the word "purchaser".

(2) By striking out of the first sentence the words "purchase between the applicant and the Commission" and inserting in lieu thereof the words "sale between the purchaser and the Secretary of Commerce".

SEC. 8. Section 504 of the Merchant Marine Act, 1936 (46 U.S.C. 1154), is amended as follows:

(1) By striking out the first three sentences.

(2) By inserting, after the section number, a new sentence to read as follows: "(a) If a qualified purchaser under the terms of this title desires to purchase a vessel to be constructed in accordance with an application for construction-differential subsidy under this title, the Secretary of Commerce may, in lieu of contracting to pay the entire cost of the vessel under section 502, contract to pay only construction-differential subsidy and the cost of national-defense features to the shipbuilder constructing such vessel. The construction-differential subsidy and payments for the cost of national-defense features shall be based upon the lowest responsible domestic bid unless the vessel is constructed under a contract negotiated by the Secretary of Commerce as provided in section 502(b) in which event the construction-differential subsidy and payments for the cost of national-defense features shall be based upon such negotiated price."

(3) By striking out the last sentence.

SEC. 9. Section 505 of the Merchant Marine Act, 1936 (46 U.S.C. 1155), is amended as follows:

(1) Subsection (a) is amended as follows:

(a) By striking out the designation "(a)".

(b) By striking out of the first sentence the words "the applicant to reject, and in".

(c) By striking out of the second sentence the words "In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use," and inserting in lieu thereof the words "Any material or other articles used in the construction of a vessel and included in the United States construction cost for the purpose of determining the construction-differential subsidy payable and all major components of the hull and superstructure shall".

(d) By striking out of the second sentence the words "only articles, materials, and supplies" and inserting in lieu thereof the word "be".

(e) By striking out of the last sentence the word "subsection" and inserting in lieu thereof the words "title V".

(2) By striking out subsctions (b), (c), (d) and (e).

SEC. 10. Section 510(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(a)), is amended as follows:

(1) By striking out of paragraph (1) all of subdivision (B) other than the final word "and", and inserting in lieu thereof the words "in the judgment of the Secretary of Commerce, should, by reason of age, obsolescence, or otherwise, be replaced in the public interest."

(2) By striking out of subdivision (C) of paragraph (1) the words "is owned" and inserting in lieu thereof the words "has been owned".

(3) By striking out of subdivision (C) of paragraph (1) the words "and has been owned by such citizen of citizens".

(4) By striking out of paragraph (1) the proviso in its entirety.

SEC. 11. Section 510(1) of the Merchant Marine Act, 1936 (46 U.S.C. 1160(i)), is amended as follows:

(1) By striking out of the first paragraph the year "1970" and inserting in lieu thereof the year "1972".

(2) By striking out of the first paragraph the words "which were constructed or contracted for by the United States shipyards before September 3, 1945,".

(3) By striking out of the first paragraph the words "warbuilt vessels (which are defined for purposes of this subsection as".

(4) By striking out of the first paragraph the words "which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)".

SEC. 12. Section 601(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1171(a)), is amended as follows:

(1) By inserting after the first sentence a new sentence to read as follows: "In this title VI the term essential service means the operation of a vessel on a service, route or line described in section 211(a) or in bulk cargo carrying service described in section 211(b)."

(2) By striking out of subdivision (1) the words "such service, route, or line" and inserting in lieu thereof the words "an essential service".

(3) By striking out from subdivision (2) the words "and maintain the service, route, or line" and inserting in lieu thereof the words "in an essential service."

SEC. 13. Section 603(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(a)), is amended as follows:

(1) By striking out the words "such service, route, or line," and inserting in lieu thereof the words "an essential service".

SEC. 14. Section 603(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(b)), is amended as follows:

(1) By striking out of the first sentence the words "on a service, route or line" and inserting in lieu thereof the words "in an essential service".

(2) By striking out of the first sentence the words "not exceed the excess of" and inserting in lieu thereof the words "be the difference between the subsidizable wage costs of United States officers and crews,".

(3) By inserting in the first sentence after the words "cost of insurance," the words "subsistence of officers and crews on passenger vessels, as defined in Section 613 of this Act,".

(4) By striking out of the first sentence the words "maintenance, repairs not compensated by insurance, wages and subsistence of officers and crews, and any other items of expense in which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country hereinafter referred to," and inserting in lieu thereof the words "and with respect to vessels constructed under a contract awarded before January 1, 1970, maintenance and repairs not compensated by insurance, incurred".

(5) By inserting before the period at the end of the first sentence a colon and a proviso to read as follows: *"Provided, however,* That the Secretary of Commerce may, with respect to any vessel in an essential service, other than a vessel which operates as a common carrier on a service, route or line, pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country".

SEC. 15. Section 603(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1173(c)), is amended as follows:

(1) By redesignating the subsection as subsection (f) and inserting new subsections (c), (d), and (e) as follows:

"(c) (1) When used in this section—

(A) The term "collective bargaining costs" means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense incurred by the applicant under a collective bargaining agreement relating to the employment of United States officers and crews in the operation of a vessel except subsistence of officers and crews and costs relating to:

(i) those officers or members of the crew that the Secretary of Commerce has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of such vessel, or

(ii) those officers or members of the crew that the Secretary of Commerce has found, prior to March 1, 1970, to be unnecessary for the efficient and economical operation of the vessel.

(B) The term "base period costs" means for the base period beginning July 1, 1970 and ending June 30, 1971, the collective bargaining costs as of January 1, 1971, less all other items of cost that have been disallowed by the Secretary of Commerce prior to March 1, 1970, and not already excluded from collective bargaining costs under subparagraph (A)(i) or (A)(ii) of this subsection. In any subsequent base period the term "base period costs" means the average of the subsidizable wage cost of United States officers and crews for the preceding annual period ending June 30, (calculated without regard to the limitation of the last sentence of paragraph (D) of this subdivi-

sion but increased or decreased by the increase or decrease in the index described in subdivision (3) of this subsection from January 1 of such annual period to January 1 of the base period) and the collective bargaining costs as of January 1 of the base period; *Provided*, That in no event shall the base period cost be such that the difference between the base period cost and the collective bargaining cost as of January 1 of any base period subsequent to the first base period, exceeds five-fourths of one percent of the collective bargaining costs as of such January 1 multiplied by the number of years that have elapsed since the most recent base period.

(C) The term "base period" means any annual period beginning July 1, and ending June 30 with respect to which a base period cost is established.

(D) The term "subsidizable wage costs of United States officers and crews" in any period other than a base period means the most recent base period costs increased or decreased by the increase or decrease from January 1 of such base period to January 1 of such period in the index described in subdivision (3) hereof, and with respect to a base period means the base period cost. The subsidizable wage costs of United States officers and crews in any period other than a base period shall not be less than 90 percent of the collective bargaining costs as of January 1 of such period nor greater than 110 percent of such collective bargaining costs.

(2) The Secretary of Commerce shall determine the collective bargaining costs on ships in subsidized operation as of January 1, 1971 and as of each January 1 thereafter, and shall as of intervals of not less than two years nor more than four years, establish a new base period cost.

(3) The Bureau of Labor Statistics shall compile the index referred to in subdivision (1). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in all private non-agricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure."

"(d) In determining foreign manning for purposes of this section, the foreign manning established for any foreign ship type with respect to any base period shall not be redetermined until the end of such period.

"(e) The wage subsidy shall be payable monthly for the voyages completed during the month, upon the operator's certification that the subsidized vessels were in authorized service during the month."

(2) By striking from the first sentence of redesignated subsection (f) the word "such" and inserting in lieu thereof the words "the insurance and maintenance and repair and subsistence of officers and crews".

(3) By striking from the third sentence of subsection (f) the words "Effective on and after July 1, 1962, such" and inserting in lieu thereof the word "Such".

(4) By striking the final paragraph of subsection (f) in its entirety.

SEC. 16. Section 605(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1175(c)), is amended as follows:

(1) By striking out of the first sentence the words "on a service, route, or line" and inserting in lieu thereof the words "in an essential service.".

(2) By striking out of the first sentence the words "in such service, route or line".

(3) By striking out of the first sentence the words "a service, route or line" and inserting in lieu thereof the words "an essential service".

(4) By striking out of the first sentence the words "competitive services, routes, or lines," and inserting in lieu thereof the words "such essential service".

(5) By striking in the first sentence the words "line serving the route," and inserting in lieu thereof the words "operator serving such essential service,".

SEC. 17. Section 606 of the Merchant Marine Act, 1936 (46 U.S.C. 1176), is amended as follows:

(1) By striking out of subdivision (3) the words "the service, route, or line" and inserting in lieu thereof the words "an essential service".

(2) By striking out of subdivision (4) the words "on such service, route, or line" and inserting in lieu thereof the words "in an essential service,".

(3) By striking out of subdivision (4) the words "service, route, or line", wherever they appear, and inserting in lieu thereof the words "essential service".

(4) By striking out subdivision (5) in its entirety.

(5) By redesignating subdivision (6) as subdivision (5).

(6) By striking out of redesignated subdivision (5) the words "the vessel's services, routes, and lines" and inserting in lieu thereof the words "essential services".

(7) By striking out of redesignated subdivision (5) the words "but with due regard to the wage and manning scales and working conditions prescribed by the Commission as provided in title III".

(8) By redesignating subdivision (7) as subdivision (6).

(9) By striking out of redesignated subdivision (6) the words "the operator shall use" and inserting in lieu thereof the words "an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items"; by striking out of that subdivision the words "and equipment"; and by striking out of that subdivision the words "and the operator shall perform repairs to subsidized vessels" and inserting in lieu thereof the words "and an operator who receives subsidy with respect to repairs shall perform such repairs".

SEC. 18. Section 607(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(a)), is amended by striking out the subsection in its entirety.

SEC. 19. Section 607(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(b)), is amended as follows:

(1) By redesignating the subsection as subsection (a).

(2) By striking out of the first sentence of the first paragraph the words "To insure the prompt payment of the contractor's obligations to the United States and the replacement of the contractor's subsidized vessels as may be required, the contractor" and inserting in lieu thereof the words "Any citizen of the United States who owns vessels that operate in the United States foreign trade and who has agreed with the Secretary of Commerce that he will replace those vessels with vessels built in the continental United States including Alaska and Hawaii, for operation in the United States foreign trade, or that he will build additional vessels in the continental United States including Alaska and Hawaii, for operation in the United States foreign trade,".

(3) By striking out of the first sentence of the first paragraph the words ", during the life of such contract,".

(4) By inserting in the first sentence of the first paragraph after the words "in such depository or depositories" the words "and for such period".

(5) By striking out of the first paragraph the word "contractor" wherever it appears and inserting in lieu thereof the word "owner".

(6) By striking out of the second sentence of the first paragraph the words "contractor's vessels on which the operating differential is being paid," and inserting in lieu thereof the words "owner's vessels operating in the United States foreign trade,".

(7) By inserting in the second sentence of the first paragraph before the words "twenty-five year life" the words "twenty-year life expectancy of liquid bulk carriers and on a".

(8) By striking out of the second sentence of the first paragraph the words "the subsidized" and inserting in lieu thereof the word "other".

(9) By striking out of the second sentence of the first paragraph the words "the contractor's line of subsidized" and inserting in lieu thereof the words "all such".

(10) By inserting in the second sentence of the first paragraph after the words "annual depreciation actually earned" the words "by all such vessels".

(11) By striking out of the second sentence of the first paragraph the words "his subsidized" and inserting in lieu thereof the word "such".

(12) By striking out of the third sentence of the first paragraph the word "subsidized" and inserting in lieu thereof, after the word "vessel", the words "operating in the United States foreign trade".

(13) By striking out of the second paragraph the word "contractor" wherever it appears and inserting in lieu thereof the word "owner".

(14) By striking out of the first sentence of the second paragraph the words "of the contractor's business covered by the contract" and inserting in lieu thereof the words "from the operation of vessels in the United States foreign trade".

(15) By striking out of the first sentence of the second paragraph the words "replacement of the contractor's subsidized ships" and inserting in lieu thereof the words "carrying out his agreement to replace ships or build additional ships".

(16) By striking out of the first sentence of the second paragraph the words "require the contractor to make such deposit of the contractor's net profits in the capital reserve fund unless the cumulative net profits of the contractor, at the time such deposit is to be made, shall be in excess of 10 per centum per anum from the date the contract was executed" and inserting in lieu thereof the words "in any year require the owner to deposit in the capital reserve fund more than 50 per centum of the owner's annual net profits from the operation of vessels in the United States foreign trade, before taxes, for such year".

(17) By striking out of the second sentence of the second paragraph the word "subsidized" and inserting in lieu thereof the word "owner's" before the word "vessels" and inserting the words "operating in the United States foreign trade" immediately thereafter.

(18) By striking out of the second sentence of the second paragraph the words "contractor on an essential foreign-trade line, route, or service approved by the Commission" and inserting in lieu thereof the words "owner in the United States foreign trade".

(19) By striking out of the third sentence of the second paragraph the word "subsidized" and inserting after the word "vessels" the words "operating in the United States foreign trade".

(20) By striking out of the third sentence of the second paragraph the words "(and with respect to any transfer of funds from the special reserve fund, to give priority to the purposes of that fund)".

(21) By striking out of subdivision (B) (1) of the second paragraph the words "contractor's subsidized" and inserting in lieu thereof the word "owner's" before the word "vessels", and the words "operating in the United States foreign trade" immediately thereafter.

(22) By striking out of subdivision (B) (3) of the second paragraph the word "contractor's" and inserting in lieu thereof the word "owner's".

(23) By striking out of the last sentence of the second paragraph the words "used for such containers in the determination of 'net earnings' under paragraph (d) (1) of this section 607" and inserting in lieu thereof the words "determined by the Secretary of Commerce".

Sec. 20. Section 607(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1177(c)), is amended by striking it out in its entirety. Subsection (a) of section 607 is redesignated as subsection (b) and amended as follows:

(1) By inserting in paragraph (1), after the word "section" first appears, a period, striking the remainder of the sentence, and inserting the following new sentence: "The Secretary of Commerce and the Secretary of the Treasury are jointly authorized to prescribe all rules and regulations necessary or appropriate to the determination of the owner's tax liability under this section."

(2) By striking out of paragraph (2) the words "contractor" and "operator" and inserting in lieu thereof the word "owner" in each case.

(3) By striking out of paragraph (2) the words "the contractor's" and inserting in lieu thereof the word "his".

(3) By striking out of paragraph (2) the words "and special".

(5) By striking out of paragraph (3) the word "contractor" wherever it appears and inserting in lieu thereof the word "owner".

(6) By striking out of subdivision (A) of paragraph (3) the words "and 50 per centum of his special reserve fund".

(7) By striking out of subdivision (A) of paragraph (3) the words "separate" and the letter "s" from the following word "trusts".

(8) By striking out of subdivision (A) of paragraph (3) the words "and special", and the letter "s" from the word "funds" of the following words "reserve funds".

(9) By striking out of subdivision (A) of paragraph (3) the words ", one trust for the capital reserve fund and one trust for the special reserve fund".

(10) By striking out of subdivision (A) (2) of paragraph (3) the letter "s" from the word "trusts".

(11) By striking out of subdivision (A) (3) of paragraph (3) the words "to pay the income from the special reserve fund trusts into the capital reserve fund trust".

(12) By striking out of subdivision (A) (4) of paragraph (3) the words "the special reserve fund and".

(13) By striking out of subdivision (A) (4) of paragraph (3) the letter "s" from the word "trusts".

(14) By striking out of subdivision (B) of paragraph (3) the word "contractor" wherever it appears and inserting in lieu thereof the word "owner".

(15) By striking out of subdivision (B) of paragraph (3) the letter "s" from the word "trusts" wherever it appears.

(16) By striking out of subdivision (B) of paragraph (3) the words "and special reserve fund".

(17) By striking out of subdivision (B) of paragraph (3) the words "At the end of the contractor's recapture period, however, after satisfaction of the contractor's recapture obligations, an amount of the special reserve fund trust equal to the value of the capital gains made (whether realized or not), the stock dividends declared, and the rights to purchase stock issued to the special reserve fund trust during such recapture period, to the extent the special reserve fund trust contains this amount, shall be transferred (in cash or in stock) to the capital reserve fund trust."

(18) By striking out of subdivision (B) of paragraph (3) the words "and the special reserve fund" wherever they appear.

(19) By striking out of subdivision (B) of paragraph (3) the word "each".

(20) By striking out of subdivision (C) of paragraph (3) the words "or special" wherever they appear.

(21) By striking out of subdivision (C) of paragraph (3) the words "or a special reserve fund".

(22) By striking out of subdivision (C) of paragraph (3) the words "or special reserve fund" wherever they appear.

(23) By striking out of subdivision (C) of paragraph (3) the words "or special" wherever they appear.

(24) By striking out of subdivision (D) of paragraph (3) the words "and special reserve fund".

Sec. 21. Subsection (e) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(e)), is redesigned as subsection (c) and is amended as follows:

(1) By striking out the word "contractor's" wherever it appears and inserting in lieu thereof the word "owner's".

(2) By striking out the word "the subsidized" wherever it appears and inserting in lieu thereof the word "his" before the following word "vessels" and the words "operating in the United States foreign trade" immediately after such word "vessels".

(3) By striking out the words "and the special reserve fund has been exhausted.".

(4) By striking out the word "contractor" and inserting in lieu thereof the word "owner".

Sec. 22. Subsection (f) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(f)), is redesignated as subsection (d) and is amended as follows:

(1) By striking out the words "Unless otherwise provided in the operating-differential subsidy contract, upon", and inserting in lieu thereof the word "Upon".

(2) By striking out the words "such contract" and inserting in lieu thereof the words "agreement described in subsection (a) of this section".

(3) By striking out the letter "s" from the word "funds".

(4) By striking out the word "contractor" and inserting in lieu thereof the word "owner".

Sec. 23. Subsection (g) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177(g)), is redesignated as subsection (e) and is amended as follows:

(1) By striking out of the first sentence the word "contractor" and inserting in lieu thereof the word "owner".

(2) By striking out of the first sentence the words "either or both" and inserting in lieu thereof the word "the".

(3) By striking out of the first sentence the letter "s" from the word "funds".

(4) By striking out of the first sentence the words "or funds".

(5) By striking out of the first sentence the words ", or may transfer funds from the special reserve funds to the capital reserve funds".

Sec. 24. Subsection (h) of section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1117(h)), is redesignated as subsection (f) and is amended as follows:

(1) By striking out of the first sentence the words "contractor receiving an operating-differential subsidy under authority of this Act," and inserting in lieu thereof the word "owner".

(2) By striking out of the first sentence the word "contractor's" and inserting in lieu thereof the word "owner's".

(3) By striking out of the first sentence the latter "s" from the word "funds".

(4) by striking out of the first sentence the words ", except earnings withdrawn from the special reserve funds and paid into the contractor's general funds or distributed as dividends or bonuses as provided in paragraph 4 of subsection (c) of this section,".

(5) By striking out of the second sentence the word "special".

(6) By inserting before the period at the end of the second sentence the following words "and the owner shall pay to the United States interest on the amount of the tax that would have been due in the year such earnings were deposited from the date of such deposit to the date of withdrawal at the rate per annum provided in the Internal Revenue Code of 1954 with respect to taxes not paid on or before the last day prescribed for payment."

Sec. 25. Section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177), is amended by the addition of a new subsection (g) to read as follows:

"(g) (1) The term 'United States foreign trade' in this section includes those areas of domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under section 506 of this Act.

"(2) The term 'vessel' in this section means a vessel built in the continental United States including Alaska and Hawaii and documented under the laws of the United States."

Sec. 26. Section 803 of the Merchant Marine Act, 1936 (46 U.S.C. 1221), is amended by striking out the section in its entirety.

Sec. 27. Section 805 of the Merchant Marine Act, 1936 (46 U.S.C. 1223), is amended by striking out subsection (c) thereof.

Sec. 28. Section 1101(c) of the Merchant Marine Act, 1936 (46 U.S.C. 1271(c)), is amended as follows:

(1) by striking out the word "and" immediately before the words "floating drydocks".

(2) By inserting after the word "walls" and before the word "owned" a comma and the words "and oceanographic research or instruction vessels,".

Sec. 29. Section 1103(e) of the Merchant Marine Act, 1936 (46 U.S.C. 1273(a)), is amended by striking the figure "$1,000,000,000" and inserting in lieu thereof the figure "$3,000,000,000".

Sec. 30. Section 1104(a) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(a), is amended by inserting in paragraph (8) immediately before the words "commercial use" the words "research, or for".

Sec. 31. Section 1104(b), is amended as follows:

(1) By inserting in paragraph (2) immediately before the words "commercial use" the words "research or for".

(2) By striking from paragraph (4) the words "be less than" and inserting in lieu thereof the word "not exceed".

(3) By inserting at the end of paragraph (4), immediately before the semi-colon, a colon and a proviso to read as follows: "*Provided, however,* That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is eligible for mortgage aid for construction under section 509 of this Act and in respect of which the minimum down payment by the mortgagor required by that section would be 12½ per centum of the cost of such vessel, the advance and the principal amount of all other advances under insured loans outstanding at the time of said advance shall not exceed 87½ per centum of such actual cost".

Sec. 32. Section 1214 of the Merchant Marine Act. 1936 (46 U.S.C. 1294), is amended by striking out the words "20 years from the date of enactment of this title" and inserting in lieu thereof the date "September 7, 1975."

Sec. 33. (a) The word "Commission" is stricken out of sections 210, 211, 501, 502, 503.

504, 505, 601(a), 602, 603, 605(c), 606, and 607 of the Merchant Marine Act, 1936, wherever it appears, and the words "Secretary of Commerce" are inserted in lieu thereof.

(b) Subsection (a) of section 211 of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting in lieu thereof the word "his".

(c) The second sentence of section 501(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(d) The second sentence of section 501(c) of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting the word "his" in lieu thereof.

(e) The first sentence of section 502(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(f) The third sentence of section 502(c) of the Merchant Marine Act, 1936, is amended by striking out the word "Commission's" and inserting the words "Secretary of Commerce's" in lieu thereof.

(g) The last sentence of section 502(e) of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting in lieu thereof the word "his".

(h) The third sentence of section 601(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(i) The first sentence of section 603(a) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(j) The last sentence of section 603(f), as redesignated, of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(k) The last sentence of section 605(c) of the Merchant Marine Act, 1936, is amended by striking out the word "it" and inserting the word "he" in lieu thereof.

(l) Section 606 of the Merchant Marine Act, 1936, is amended as follows:

(1) By striking out of subdivision (1) the word "its" wherever it appears and inserting in lieu thereof the word "his".

(2) By striking out of subdivision (1) and (3) the word "it" and inserting in lieu thereof the word "he".

(3) By striking out of subdivision (1) the word "Its" and inserting in lieu thereof the word "His".

SEC. 34. Section 201(b) of the Merchant Marine Act, 1936 (46 U.S.C. 1111(b)), is amended by striking out the word "Commission" wherever it appears in the last sentence thereof and inserting in lieu thereof the words "Federal Maritime Commission".

(m) Subdivision (b)(2), as redesignated, of section 607 of the Merchant Marine Act, 1936, is amended by striking out the word "its" and inserting the word "his" in lieu thereof.

SEC. 35. Section 303 of Reorganization Plan No. 21 of 1950 (64 Stat. 1273) is amended by striking out the words at the end thereof "or of the Maritime Administration."

SEC. 36. Section 301 of Reorganization Plan No. 7 of 1961 (75 Stat. 840) is amended by striking out the words "and to the Maritime Administrator and all other officers and employees of the Maritime Administration."

SEC. 37. The Act of April 29, 1941, (69 Stat.) (40 U.S.C. 270e), is hereby amended by adding a new section 2 to read as follows:

"SEC. 2. The Secretary of Commerce may waive the Act of August 24, 1935 (49 Stat. 793–4), with respect to contracts for the construction, alteration, or repair, of vessels of any kind or nature, entered into pursuant to the Act of June 30, 1932 (47 Stat. 382, 417–8), as amended, the Merchant Marine Act, 1936, or the Merchant Ship Sales Act of 1946, regardless of the terms of such contracts as to payment or title."

SEC. 38. (a) The amendments made by this Act shall not affect any contract with the Secretary of Commerce or his delegates that is in effect on the date of enactment of this Act. At the request of the other party to any operating-differential subsidy contract, the Secretary of Commerce may amend such contract so as to be in accordance with all of the amendments made by this Act, but no amendment made by this Act shall be incorporated in such contract unless all such amendments are incorporated in such contract. Until such contract is amended or if such contract is not amended, it shall be administered in accordance with the provisions of the Merchant Marine Act, 1936, as they existed immediately prior to enactment of this Act; Provided that the Secretary of Commerce may, in order to facilitate the amendment of existing contracts, settle or compromise outstanding controversies under such contracts in such manner as he determines.

(b) If any operating-differential contract in existence on the date of enactment of this Act is amended as provided in subsection (a), the current recapture period shall be closed as of the date of the amendment and the recapture that is due and payable as of the effective date of such amendment shall be computed on the basis of such shortened period. The amendments shall provide that, with respect to seafaring personnel, in determining the rights and obligations of the contractor under such contract, the limitation of section 805(c) of the Merchant Marine Act, 1936, as it existed immediately before the enactment of this Act shall not apply. Any contractor under such contract may apply to the Secretary for permission to transfer funds on deposit in such contractor's special reserve fund to its capital reserve fund. If the Secretary determines that any part or all of the special reserve funds are necessary to replace vessels during the remaining term of such contract or are otherwise necessary to acquire modern vessels, he may approve such application. Any funds so transferred shall become part of the contractor's capital reserve fund. Any amounts not so transferred shall become part of the contractor's general funds and that portion of such funds which are ordinary income or capital gains shall be taxable as if earned in the year such amendment becomes effective.

SEC. 39. (1) There is hereby established a commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of seven members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman.

(2) Members of the Commission who are not full time employees of the United States Government shall each be entitled to receive the per diem equivalent of the rate authorized for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code when engaged in the actaul performance of duties vested in the Commission, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

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

(5) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject (except as provided in paragraph (4) hereof) to the civil service laws and the Classification Act of 1949, as amended.

(6) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at the rate to be fixed by the Commission, but not in excess of the per diem equivalent of the rate authorized for GS–18 of the General Schedule under section 5332 of title V of the United States Code, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(7) The Commission shall review the status of the American shipbuilding industry, its problems and its progress toward increasing its productivity and reducing production costs. The Commission shall determine whether the American shipbuilding industry can achieve a level of productivity by the fiscal year 1976 such that the construction-differential subsidy payable under title V of the Merchant Marine Act, 1936, will not exceed 35 percent of the United States construction cost. The Commission shall recommend a course of action which should be taken on the part of Government and industry to improve the competitive situation of the United States shipbuilding industry in world shipbuilding markets and if the Commission shall determine that the construction-differential subsidy cannot be reduced to 35 percent of the United States cost it shall recommend alternatives to the ship construction program then in effect.

(8) The Commission shall not later than three years after the date of enactment of this Act or such earlier dates as shall be required by section 502(b) of the Merchant Marine Act, 1936, submit a comprehensive report of its findings and recommendations to the President and to the Congress, and sixty days thereafter shall cease to exist.

(9) There are hereby authorized to be appropriated such amounts as may be necessary to permit the Commission to carry out its responsibilities under this Act.

The material presented by Mr. MAGNUSON is as follows:

THE SECRETARY OF COMMERCE,
Washington, D.C., December 22, 1969.

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

DEAR MR. PRESIDENT: Enclosed are four copies of a draft of legislation "To amend the Merchant Marine Act, 1936," together with a section-by-section analysis of the bill, and a comparative text showing the changes which the bill would make in existing law.

This legislation implements the President's message on maritime policy of October 23. Its prompt enactment is vital if we are to have an adequate American flag merchant marine.

I urge favorable consideration by the Congress of this legislation, enactment of which is in accord with the program of the President.

Sincerely,

ROCCO C. SICILIANO,
Acting Secretary of Commerce.

SECTION-BY-SECTION ANALYSIS OF THE DRAFT BILL—TO AMEND THE MERCHANT MARINE ACT, 1936

SEC. 1. Section 101 of the Merchant Marine Act, 1936, states in part, that it is necessary for the national defense and the development of the United States foreign commerce that the United States shall have a merchant marine sufficient to provide shipping "service on all routes" essential for maintaining the flow of such commerce. Section 1 of the bill would strike out of section 101 of the Act the words "service on all routes", and would substitute therefor the word "capacity" to avoid the implication that a specific geographic path alone fulfills the test of essentiality. This will make it clear that vessels which do not operate on a fixed route still come within the purposes of the Act. This is consistent with the proposal to provide direct operating subsidy for bulk carriers, which do not operate on a specific geographic route.

SEC. 2. Section 210 of the Act requires the Secretary of Commerce to develop a long range program to create an adequate and well-balanced merchant fleet to provide shipping service on all routes essential for maintaining the flow of the foreign commerce of the United States. Since it is intended to provide construction subsidy and direct operating subsidy for bulk carriers, some of which do not operate on a route, section 2 of the bill would strike out the words "service on all routes" and would substitute therefor the word "capacity".

SEC. 3. Section 211 of the Act authorizes and directs the Secretary of Commerce to investigate, determine and keep current records of the ocean services, routes and lines from United States ports to foreign markets which are essential for the promotion, development, and maintenance of the foreign commerce of the United States, and the type, size, and speed of vessels that should be employed on such services, routes and lines. Section 3 of the bill would impose the same requirements with respect to bulk cargo carrying services, and bulk carriers, not all of which operate on a service, route, or line.

SEC. 4. Redesignated section 211(e) requires the Secretary of Commerce to keep records and investigate the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews incurred in the operation of comparable vessels under United States registry and under the registry of a foreign country. Section 4 of the bill would require that the same information be collected for bulk carriers.

SEC. 5. Section 501 of the Act provides that any citizen of the United States may apply for construction-differential subsidy to build a new vessel for operation in the foreign commerce of the United States or to reconstruct a vessel for such operation, and it prohibits the Secretary of Commerce from restricting the operation of such vessels in the foreign commerce. In this section, "citizen of the United States" means the prospective shipowner.

Section 5 of the bill would no longer permit the shipowner to be an applicant for subsidy to construct a ship and would substitute shipyards in the continental United States as applicants. The application submitted by a shipyard would set forth the design characteristics of the vessel that is proposed to be built with construction-differential subsidy. With respect to reconstruction, either the shipowner or shipyard could apply.

Section 5 of the bill would authorize the Secretary of Commerce to restrict the operation of the ship. The purpose of this latter provision is to permit the Secretary of Commerce to insure that when vessels are built for a particular trade or trades they are used in the intended trades or other acceptable trades. Under the present law construction-differential subsidy has seldom been extended to vessel owners that did not also have an operating contract. The operating subsidy contracts require that subsidized vessels operate in certain specified areas. As a result, ships built with construction subsidy were, as a practical matter, limited to operation in certain geographical areas. Under present conditions it appears that certain of the United States trades can be serviced without operating subsidy. The North Atlantic and North Pacific trades are two such areas. Although operators in these areas may not presently require operating subsidy, construction subsidy must be made available if they are to purchase their ships in the United States. The proposed provision would insure that where subsidy is paid for such ship construction, the resulting ships are used in areas in which they are needed most.

The purpose of making the shipyard the applicant is to bring the shipyard into the design work on the vessel, to encourage standardization of ships, and to recognize that construction subsidies are subsidies to shipyards, not to shipowners. The amendment provides that the Secretary of Commerce may give preferred consideration to applications that will tend to reduce construction-differential subsidies and construct ships of high transport capability and productivity. Increased emphasis on the construction and operation of standardized ships will help to achieve this result and preference may be given to any application incorporating standardization or other cost reduction techniques to achieve the desired results.

SEC. 6. Section 502(a) of the Act provides that if the Secretary of the Navy certifies his approval of the plans and specifications and if the Secretary of Commerce approves the application, the Secretary of Commerce may secure bids on behalf of the applicant, and if both approve the lowest responsible bid, the Secretary of Commerce may contract with the lowest responsible bidder for construction of the ship and may concurrently contract with the applicant for sale of the vessel to him at the estimated foreign cost of the vessel. Section 6 of the bill would conform section 502(a) to the change made in section 501(a) making a shipyard the applicant rather than the prospective shipowner. With this change the section would provide that after approval of the shipyard's application, the Secretary of Commerce would obtain competitive bids and contract with the lowest responsible bidder for construction of the ships. The applicant shipyard would obtain the contract only if it was the lowest responsible bidder. Section 6 of the bill would also amend section 502(a) to authorize the Secretary of Commerce to contract for sale of the vessel upon its completion to a citizen of the United States if the Secretary finds that such citizen has the ability, experience, financial resources, and other qualifications necessary to enable him to operate and maintain the vessel.

Section 502(b) of the Act provides that the construction-differential subsidy may equal but shall not exceed the excess of the bid of the shipbuilder constructing the vessel over the estimated foreign cost of building the vessel in a representative foreign shipyard. Section 6 of the bill would amend this section to provide that the estimated foreign cost shall be by type of vessel which the Secretary shall compute periodically. Between recomputations the Secretary shall adjust this cost for increases or decreases in labor and material costs. The purpose of this amendment is to permit applicant shipyards to compute the subsidy in advance and quote a price on standard vessels to prospective buyers. The maximum subsidy permitted by section 502(b) is 55 percent of the United States cost of the vessel until July 1, 1970, and thereafter 50 percent of such cost. When the difference between the United States and foreign cost of the ship exceeds this percentage, the Secretary of Commerce is authorized to negotiate with shipyards for construction of the vessel at a price that will reduce the differential to the applicable percentage or less.

Section 6 of the bill would amend this provision to authorize such negotiation if the differential exceeds 45% of such cost in 1971, 43% in 1972, 41% in 1973, 39% in 1974, 37% in 1975, and 35% in 1976 and 35% in 1976 and thereafter. These differentials are the productivity goals which should be achieved by domestic shipyards if they are to meet the challenge of the President's program. Under normal circumstances, the requirement of competitive bidding would permit negotiation only with the low bidder. There may, however, be instances where a bidder other than the low bidder would be willing to reduce his price to acceptable construction differential levels. This section would authorize the Secretary of Commerce to negotiate with respect to price with any bidder whether or not such bidder is the low bidder. This provision would not be applicable where the low bidder was within the applicable construction differential limits. In such a case the low bid would be accepted.

In addition, section 6 would provide that the Secretary of Commerce shall not enter into a contract requiring a construction differential in excess of the applicable percentage in any year commencing with fiscal 1972 unless he shall, before entering into such contract, give due consideration to the likelihood that the applicable construction differential will not be attained and the construction program will not be continued. If the Secretary does enter into such a contract he must notify the Chairman of the Commission on American Shipbuilding of such contract and the Commission must submit its report within six months of such notification. The percentages set forth in this section are realistic goals and it is expected that the shipbuilding industry will be able to meet these goals. Failure to meet the goals would cause serious concern over the ability of the industry to meet the challenge of the shipbuilding program contained in this bill. Accordingly, the bill would provide for an accelerated report from the Commission on American Shipbuilding to determine if the goals of the construction program will be met and if not to recommend alternatives to ship construction program.

Section 502(c) of the Act provides for sale of the ship after construction to the applicant shipowner with a 25 percent down payment, the balance to be paid in equal annual installments over the 25 year life of the ship, with interest at 3½ percent per annum on the unpaid balance. Section 6 of the bill would amend this subsection to substitute for the 3½ percent interest rate, a rate equal to the Government's cost of borrowing money. Section 502(e) provides for building the vessel in a United States Navy shipyard, if no bids are received or if the bidding is collusive or if the bids are unreasonable. Section 502(f) provides for the allocation of shipbuilding among shipyards if this is necessary to maintain a mobilization base at strategic points. Section 502(g) provides for the sale of vessels purchased by the Secretary under section 215 of the Act. Section 6 of the bill would amend these sections by changing the word "applicant" to "purchaser" or "citizen of the United States" whichever is appropriate. Under present day conditions ships built with construction subsidy are built under the provisions of section 504. This procedure is not expected to change. The provisions of section 502 are important, however, in the interpretation of other provisions of the statute including section 504.

SEC. 7. Section 503 of the Act provides for the documentation, for 25 years, under the laws of the United States of vessels built with construction-differential subsidy and

for the sale by the government of the vessel subject to a mortgage. Section 7 of the bill would amend this section by changing the word "applicant" to "purchaser" wherever it appears to make it clear that the purchaser of the vessel under this section is not the same as the applicant for construction-differential subsidy which, under the proposed legislation, is the shipyard.

SEC. 8 Section 504 of the Act provides that if an eligible applicant wants to finance the construction of a vessel according to approval plans and specifications rather than purchase it from the Secretary, the Secretary may permit him to obtain competitive bids. If the Secretary considers the bid of the shipyard in which the applicant wants to have the vessel built to be fair and reasonable, the Secretary may approve the bid, become a party to the contract, and agree to pay construction-differential subsidy and for national defense features based upon the lowest responsible bid.

Section 8 of the bill would amend this section to provide that if a qualified purchaser desires to purchase a vessel constructed in accordance with an application for construction-differential subsidy, the Secretary of Commerce may, in lieu of paying the entire cost of the vessel under section 502, contract to pay only the construction-differential subsidy and the cost of national defense features to the shipbuilder constructing the vessel. Under this amendment, the qualified purchaser would not have to accept the lowest responsible bid, but the subsidy and cost of national defense features would be based upon the lowest responsible bid unless the Secretary has negotiated a lower price under section 502(b).

SEC. 9. Section 505(a) of the Act provides that in all construction under the Act, the shipbuilder, subcontractors, materialmen, or suppliers shall so far as practicable use only articles, materials, or supplies of the growth, production or manufacture of the United States.

Section 9 of the bill would require only that major components of the hull or superstructure and any material or other articles used in the construction of the vessel and included in the United States construction cost for the purpose of determining the construction-differential subsidy payable be of domestic origin. The purpose of this amendment is to make clear that only those items for which government subsidy is paid must be of domestic origin. All major structural components, however, must be of domestic origin whether or not subsidy is paid on such components.

Sections 505(b), (c), (d) and (e) provide for recapture of all profit made by any shipbuilder under any contract under title V of the Act in excess of 10 percent of the contract price. Section 9 of the bill would repeal these provisions. These provisions have been suspended by the Renegotiation Act which achieves a similar result and which is not limited in its application to shipyards. Retention of these provisions serves no useful purpose.

SEC. 10. Section 510(a) of the Act defines the term "obsolete vessel", in part, for purposes of trade-in to the United States as a vessel not less than 17 years old and in the judgment of the Secretary obsolete or inadequate for successful operation in the foreign or domestic trade of the United States. Some war-built vessels that are traded-in are of the same type as others whose operation we continue to subsidize. Section 605(b) of the Act provides that no operating subsidy shall be paid for the operation of a vessel that is over 20 years old if it was built before January 1, 1946, or 25 years old if it was built thereafter unless the Secretary finds that it is in the public interest to do so.

To conform these two findings section 10 of the bill would substitute in section 510(a) for the finding that the vessel is obsolete or inadequate for successful operation in the foreign or domestic commerce of the United States, a finding that in the judgment of the Secretary, the vessel should, by reason of age, obsolescence or otherwise, be replaced in the public interest. Section 10 of the bill would also eliminate the 17 year age requirement, because we may want to trade in some vessels prior to that age. Another part of the definition of "obsolete vessel" in section 510 is that the vessel is owned by a citizen of the United States and has been owned by such citizen for 3 years prior to the trade-in. Under this part of the definition if an operator sells his vessel to another United States citizen in lieu of trading it in, but must take the vessel back because the purchaser defaults, the vessel become ineligible for trade-in because the same owner has not owned it for 3 years prior to the trade-in. Section 10 of the bill would eliminate this difficulty by changing the ownership requirement to a requirement that the vessel has been owned by a citizen or citizens of the United States for at least 3 years prior to the trade-in.

SEC. 11. Section 510(1) of the Act authorizes the Secretary of Commerce, until July 5, 1970, to acquire vessels which were constructed or contracted for by United States shipyards before September 3, 1945, in exchange for more modern and efficient oceangoing vessels which were constructed or contracted for by United States shipyards between September 3, 1939, and September 2, 1945, which are owned by the United States. Section 11 of the bill would extend this authority to July 5, 1972, and would eliminate the construction dates. There are still some ships in the reserve fleet which if traded-out and converted would become efficient vessels. In addition we may receive in trade some vessels constructed after 1945 which may later be traded-out.

SEC. 12. Section 601(a) of the Act authorizes the Secretary to consider the application of any citizen of the United States for financial aid in the operation of a vessel in an essential service in the foreign commerce of the United States, but provides that he shall not approve the application unless he determines that (1) operation of the vessel in such service, route or line is required to meet foreign competition and to promote the foreign commerce of the United States, and (2) the applicant owns or can and will build or purchase vessels of the size, type, speed and number, and with the proper equipment, required to enable him to operate and maintain the services, route or line so as to meet competitive conditions and promote the foreign commerce of the United States. This section was not intended to permit financial aid in the operation of bulk carriers. The amendment made by section 12 to the bill is intended to permit the grant of financial aid to bulk carriers. The amendment would strike out of the section the words service, route or line and the reference to maintaining a service, route or line and would substitute therefor the words "essential service". The amendment would define essential service for purposes of title VI as the operation of a vessel on a service, route or line described in section 211(a) of the Act or in bulk cargo carrying service described in section 211(b) of the Act.

SEC. 13. Section 603(a) of the Act provides that if the Secretary approves an application for operating subsidy he may enter into a contract to pay such subsidy for vessels operating in a service, route or line. To authorize contracts for operation of bulk carriers, section 13 of the bill would strike out the words "such service, route, or line" and insert "in an essential service" in lieu thereof.

SEC. 14. Section 603(b) of the Act provides that the amount of the operating-differential subsidy for the operation of a vessel on a service, route or line shall not exceed the excess of the fair and reasonable cost of insurance, maintenance, repairs not compensated by insurance, wages and subsistence of officers and crews, and any other items of expense with respect to which the Secretary finds the applicant is at a substantial disadvantage, over the estimated fair and reasonable cost of the same items of expense if the vessel were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel.

Section 14 of the bill would amend this section by substituting the term "essential service" for the words "service, route, or line." The purpose of this is to permit payment of operating-differential subsidy for the operation of bulk carriers which do not operate on a service, route or line. Section 14 would also eliminate as items to be subsidized (1) subsistence of officers and crews except on passenger vessels as defined in section 613 of the Act, (2) maintenance and repairs not compensated by insurance on vessels constructed under a contract awarded after January 1, 1970. In addition, the authority to pay operating subsidy on any other item of expense with respect to which the Secretary finds the operator is at a substantial disadvantage would be eliminated. The elimination of these items will not place the operators at a substantial disadvantage and will simplify the administration of the Act. For the words "wages * * * of officers and crews", the amendment would substitute the term "subsidizable wage costs of United States officers and crews" which is defined in the new subsection (c) which would be added by section 15 of the bill.

Section 14 would also authorize the Secretary with respect to any vessel operating in an essential service other than a vessel which operates as a common carrier on a service, route, or line, to pay, in lieu of the operating-differential subsidy provided by section 603 (b) of the Act, such sums as the Secretary determines are necessary to make the cost of operating the vessel competitive with the cost of operating similar vessels under the registry of a foreign country. Since bulk carriers have not been subsidized before, this flexibility is necessary to determine the best method of subsidization.

SEC. 15. This section would redesignate the present subsection (c) of section 603 as subsection (f) and would add a new subsection (c) which would specify the manner in which the cost of employing United States officers and crews shall be determined for subsidy purposes. The new subsection defines a number of terms which are necessary for the calculation of subsidy. Section 603(b), as amended, would provide that the subsidy in respect of compensation of officers and crew is the difference between the "subsidizable wage cost of U.S. officers and crew" and the foreign crew compensation cost. The new subsection (c) relates the term subsidizable wage costs of U.S. officers and crews to the cost incurred by the vessel operators under their collective bargaining agreements. The term "collective bargaining costs" includes any item of expense paid under a collective bargaining agreement that is related to the employment of officers and crews on a subsidized vessel. It would include such items as pensions and welfare benefits, training fund contributions and any other items included in the collective bargaining contract as a result of good faith bargaining between employer and employee. Certain costs would, however, be excluded. No subsidy would be paid in respect of subsistence of officers and crews on cargo vessels. Subsistence on passenger vessels is provided for under section 603(b) as that section would be amended. No costs incurred in connection with those officers or members of the crew that have been found to be unnecessary for the efficient and economical operation of the vessel by the Secretary of Commerce would be allowed if the Secretary has made his finding prior to the award of a contract for the con-

struction or reconstruction of a vessel. In addition, costs relating to officers and crew members found prior to March 1970 under the Secretary's present procedures to be unnecessary would be excluded from collective bargaining costs. The words efficient and economical operation of the vessel would where necessary permit crew compliments greater than the minimum Coast Guard safety requirements but would require that crew compliments be derived with due regard to the economics of commercial vessel operation in the foreign trade.

Section (c) also defines the term "base period costs". For the first base period beginning July 1, 1970 and ending June 30, 1971, the collective bargaining costs as of January 1, 1971, less costs that have been disallowed by the Secretary prior to March 1, 1970, would constitute the base period costs. For this first base period, no cost of any kind that has been disallowed under present law would be included in calculating the base period costs. Both the exclusions from the term collective bargaining costs, which are limited to manning disallowances and all other disallowances under present law, would be excluded from the first base period calculation. A base period is defined as any annual period beginning July 1 and ending June 30 with respect to which the Secretary of Commerce establishes a base period cost.

In order to determine the subsidizable wage costs of U.S. officers and crews for the purpose of calculating the operating subsidy, the base period costs would be adjusted by reference to increases or decreases in an index of wage and benefit costs. The subsidizable wages for subsidy purposes could not be less than 90 percent of the collective bargaining costs nor more than 110 percent of such cost. The base period costs for subsequent base periods would be the average of the subsidizable wage costs of U.S. officers and crews for the preceding annual period, increased or decreased by the index to January 1 of the base period, and the collective bargaining costs on January 1 of the base period. The difference between the base period cost and collective bargaining costs on January 1 of any base period after the first base period may not exceed five-fourths of one percent of the collective bargaining costs on January 1 of the base period multiplied by the number of years that have elapsed since the most recent base period determination.

The Secretary of Commerce would determine the collective bargaining costs on each January 1 and would establish a new base period cost at intervals of not less than 2 nor more than 4 years. The new subsection provides that the foregoing index shall be compiled by the Bureau of Labor Statistics and shall consist of the average annual change in wages and benefits for employees covered by collective bargaining agreements. The index would give equal weight to: (1) changes affecting employees in the transportation industry other than the offshore maritime industry, and (2) changes affecting employees in all industries other than transportation. The purpose of the index provisions is to provide an incentive for vessel operators to control their costs. To the degree their cost increases are less than the increases in the index, they profit from such control. Section 15 of the bill would also add new subsections (d) and (e) to section 603.

The new subsection (d) would provide that in determining foreign manning for subsidy purposes that foreign manning with respect to a particular foreign ship type will not be redetermined until the adoption of a new base period cost. At present, the foreign manning determination is not changed for a three year period unless the type of ship which constitutes the main foreign competition is changed. Similarly, under new subsection (d) the manning would be redetermined if the foreign ship type changes. The new subsection (e) provides that the wage subsidy shall be payable monthly, for voyages completed during the month, on the operator's certification that the subsidized vessels were in authorized service. Former subsection (c) of section 603 (which has been redesignated subsection (f)) provides that the subsidy shall be determined and payable on the basis of a final accounting made as soon as practicable after the end of each year or other period fixed in the contract, and it makes provision for certain payments on account. Section 15 of the bill would amend this section so that it would not apply to the wage subsidy. The subsection also provides that no subsidy shall be paid until the contractor provides evidence that the minimum wages prescribed by the Secretary under section 301(a) have been paid to the ships personnel. Section 15 of the bill repeals this provision as no longer necessary.

SEC. 16. Section 605(c) of the Act provides that no contract shall be made under title VI with respect to a vessel to be operated on a service, route or line served by citizens of the United States which would be in addition to the existing service unless the Secretary determines after proper hearing of all parties that the service already provided by vessels of United States registry in such service, route or line is inadequate and that in the accomplishment of the purposes and policy of this Act, additional vessels should be operated thereon. The section provides in addition that no contract shall be made with respect to a vessel to be operated on a service, route or line served by two or more citizens of the United States if the Secretary determines the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in competitive services, routes or lines unless following public hearing the Secretary determines it is necessary to enter into such contract to provide adequate service by vessels of United States registry. Section 16 of the bill would amend this section by striking out the words "services, routes, and lines" and substituting the words "essential service". The purpose is to include within the coverage of the section contracts for the operation of bulk carriers and thus prevent unfairness to other operators.

SEC. 17. Section 606(3) of the Act provides that if the Secretary determines that a change in the service, route or line receiving a subsidy is necessary, he may make such changes upon readjustment of the subsidy. Section 17 would amend this provision by striking out the reference to "service, route, or line" and substituting "essential service". The purpose is to include within the provision contracts with bulk carriers. Section 606(4) provides that if a contractor receiving an operating-differential subsidy claims he cannot maintain and operate his vessels on such service, route or line with a reasonable profit on his investment and asks for modification or rescission of his contract, and the Secretary detrmines that such claim is proved, the Secretary shall modify or rescind the contract. Section 17 would modify this provision to make it applicable to contracts with bulk carriers.

Section 606(5) of the Act provides that when at the end of any 10 year period the contractor's net profit on his subsidized vessels has averaged more than 10 percent of his capital necessarily employed, he shall pay one-half of such net profit to the United States, but not exceeding the operating-differential subsidy paid to him during the period, as partial or complete reimbursement of the operating subsidy. Section 17 of the bill would repeal this section because its purpose is largely served by present corporate tax rates, and such repeal would simplify administration of the Act.

Section 606(6) (redesignated section 606(5)) provides that the operator will conduct his operations with respect to the vessel's services, routes and lines in the most economical and efficient manner but with due regard to the minimum manning scales provided pursuant to title III. Section 17 of the bill would make this provision applicable to bulk carrier operators, and would repeal the obsolete reference to manning scales.

Section 606(7) (redesignated section 606(6)) provides that the operator shall whenever practicable use only articles, materials and supplies of the growth, production, and manufacture of the United States, and shall perform repairs to subsidized vessels in the United States. Section 16 would modify this provision so that it would be applicable only to items that would be subsidized, namely, repairs on vessels built prior to January 1, 1970, and subsistence of officers and crews on passenger vessels. This would simplify administration of the Act and remove an inequity.

SEC. 18. Section 607(a) of the Act provides that the operator shall be entitled to withdraw annually from earnings of subsidized vessels, as dividends, a sum not in excess of 10 percent of his capital necessarily employed in his business. This provision was included in the Act to protect the recapture rights of the United States. Section 18 of the bill repeals this provision since the bill also repeals the recapture provisions.

SEC. 19. Section 607(b) of the Act (redesignated (a)) requires a subsidized operator to create a capital reserve fund into which he is required to deposit depreciation on his subsidized vessels and such percentage of his annual profits in excess of 10 percent of his capital necessarily employed as the Secretary determines is necessary to build up a fund to replace his ships. From this fund he may pay the principal on mortgages on his subsidized vessels, make disbursements for replacement vessels or for additional vessels, for amounts contributed for design expenses, and for amounts for purchase of containers. Section 19 of the bill would amend this provision so that it would be available to any United States flag operator in foreign trade who has an agreement with the Secretary of Commerce to build vessels.

SEC. 20. Section 607(c) of the Act requires the subsidized operator to create a special reserve fund into which he must deposit all profit on his subsidized vessels in excess of 10 percent of capital necessarily employed. From this fund he may reimburse his general funds for operating losses and pay his recapture obligations. The chief purpose of this fund is to protect the recapture rights of the United States. Since the bill repeals the operators recapture obligations section 20 of the bill repeals the provisions requiring this fund. Section 607(d) of the Act (redesignated (b)) provides that the Secretary shall adopt rules and regulations for the administration of the reserve funds and shall include a definition of "net earnings" and "capital necessarily employed". These definitions were required for recapture purposes. Section 20 of the bill repeals them since it also repeals the recapture provisions. The subsection also authorizes investment of the fund in interest bearing securities and, if there is a trustee approved by the Secretary, in common stocks. Section 20 of the bill conforms these provisions to the other provisions of the bill permitting unsubsidized operators to have such capital reserve funds and abolishing special reserve funds.

SEC. 21. Section 607(e) of the Act (redesignated (c)) authorizes the Secretary to permit the operator to withdraw funds from his capital reserve funds if his special reserve fund is exhausted and his operating funds have been depleted through losses. Section 21 of the bill conforms this section of the Act to the provisions allowing unsubsidized op-

erators to have capital reserve funds and abolishing special reserve funds.

SEC. 22. Section 607(f) of the Act (redesignated (d)) provides that on termination of the operating-subsidy contract, amounts in the funds shall be the property of the contractor except for sums due the United States. Section 22 of the bill conforms this provision to the provisions allowing unsubsidized operators in foreign trade to have capital reserve funds and abolishing special reserve funds.

SEC. 23. Section 607(g) of the Act (redesignated (e)) provides that with the consent of the Secretary, the contractor can voluntarily increase the amounts in his reserve funds by depositing any or all earnings otherwise available for distribution to stockholders. Section 23 of the bill conforms this provision to the provisions permitting unsubsidized operators in foreign trade to have capital reserve funds and abolishing special reserve funds.

SEC. 24. Section 607(h) of the Act (redesignated (f)) provides that earnings deposited in his reserve funds (except earnings withdrawn from his special reserve fund into his general funds or distributed as dividends) are exempt from all Federal taxes. The section further provides that earnings withdrawn from the special reserve fund shall be taxed as though earned in the year of withdrawal. Section 24 of the bill conforms this provision to the provisions that unsubsidized operators may create a capital reserve fund and abolish special reserve funds. Section 24 of the bill imposes interest on the amount of tax that would have been due in the year the earnings were deposited, from the date of deposit to the date of withdrawal, at the rate per annum provided in the Internal Revenue Code of 1954 with respect to taxes not paid on or before the last day prescribed for payment. Currently, the rate provided by the Internal Revenue Code is 6 percent. The imposition of this interest should remove any incentive to accumulate reserve fund monies. Accumulation of earnings in the reserve fund without new ship construction will be of no benefit to vessel owners.

SEC. 25. This section adds a new subsection (g) to section 607 which would define the term "United States foreign trade" as including those areas of domestic trade in which a vessel built with construction-differential subsidy may operate under section 506 of the Act. This section would also define "vessel" as a vessel built in the continental United States and documented under the laws of the United States. The purpose of these provisions is to equalize the situation of unsubsidized operators in foreign trade with that of subsidized operators so far as use of ships built with tax deferred funds is concerned.

This section would also add a new subsection (h) to section 607 which would authorize the Secretary of Commerce and the Secretary of the Treasury jointly to prescribe rules and regulations necessary under this section. Under the present tax deferred provisions of section 607, the tax liability of the subsidized operators is determined under closing agreements entered into between the operator and the Treasury. It is expected that the regulations prescribed under the authority of new subsection (h) would generally follow the form of the present closing agreements with subsidized operators and thereby provide a uniform basis for determining the tax liability of operators that enjoy the benefits extended by section 607 as it would be amended.

SEC. 26. Section 803 of the Act provides that it is unlawful for any contractor receiving an operating-differential subsidy or any charterer under title VII to employ any person or concern performing or supplying ship-repair, ship-chandler, towboat or kindred services if the contractor or any related company or any member of their immediate families owns any pecuniary interest directly or indirectly in the person supplying such services. The chief purposes of this provision was to prevent the bleeding off of profits from the subsidized company to defeat recapture. Since the bill repeals the recapture provisions, section 26 of the bill repeals section 803 of the Act.

SEC. 27. Section 805(c) of the Act provides that no salary for personal services in excess of $25,000 paid by the contractor shall be taken into account for subsidy accounting purposes. The purpose of this provision was to protect the recapture rights of the United States. Since the bill repeals the recapture provisions, section 27 of the bill repeals the foregoing provision. Under section 38 of the bill this repeal would be retroactively applied with respect to seafaring personnel.

SEC. 28. Section 1101(c) of the Act defines the term "vessel" for purposes of granting loan and mortgage insurance. Section 28 of the bill amends this section to include oceanographic research or instruction vessels.

SEC. 29. Section 1103(e) of the Act limits the amount of loan and mortgage insurance that can be outstanding at any one time to $1 billion. To accommodate the enlarged program planned, section 29 of the bill would increase this amount to $3 billion.

SEC. 30. Section 1104(a) of the Act permits mortgage insurance to be granted only on vessels which are designed principally for commercial use. To permit such insurance on oceanographic research vessels, section 30 of the bill amends this section to include research as a use.

SEC. 31. Section 1104(b) permits granting of loan insurance only on vessels designed principally for commercial use. To permit such insurance on oceanographic vessels section 31 of the bill amends the section to permit research as a use. Section 1104(b) permits loan insurance on any vessel only if there is a down payment of 25 percent. If, however, the vessel would have been eligible for aid under section 509 of the Act (that is, is built without construction subsidy and is of at least the size and speed specified in that section) mortgage insurance can be granted if there is a down payment of only 12½ percent. Section 31 of the bill conforms these two provisions by amending section 1104(b) of the Act to permit a 12½ percent down payment for loan insurance, if that is all that is required for mortgage insurance.

SEC. 32. Title XII of the Act authorizes the Secretary to grant war risk insurance on vessels when such insurance cannot be obtained commercially on reasonable terms and conditions. The title was first enacted in 1950 for a 5 year term and has been extended at 5 year intervals since then. Section 32 of the bill would extend the expiration date of this title to September 7, 1975.

SEC. 33. This section would strike out of sections 210, 211, 501, 502, 503, 504, 505, 601(a), 602, 603, 605(c), 606, and 607 of the Merchant Marine Act, 1936, the word "Commission" wherever it appears and would substitute therefor the words "Secretary of Commerce". This will conform these sections to the provisions of Reorganization Plan No. 21 of 1950 and Reorganization Plan No. 7 of 1961 which abolished the United States Maritime Commission and placed the functions under these sections in the Secretary of Commerce.

SEC. 34. The last sentence of section 201(b) of the Merchant Marine Act, 1936, provides that it shall be unlawful for any member, officer or employee of the United States Maritime Commission to be in the employ of any other person, firm or corporation, or to have any pecuniary interest in, or hold any official relationship with, any carrier by water, shipbuilder, contractor, or other person, firm, association or corporation with whom the United States Maritime Commission may have business relations. Reorganization Plan No. 21 of 1950 abolished the United States Maritime Commission, created the Maritime Administration and the Federal Maritime Board, divided the functions of the former United States Maritime Commission between the Secretary of Commerce and the Federal Maritime Board, and applied the last sentence of section 201(b) of the 1936 Act to the Federal Maritime Board and to the officers and employees of the Federal Maritime Board and the Maritime Administration. Reorganization Plan No. 7 of 1961 abolished the Federal Maritime Board, created the Federal Maritime Commission, transferred the Board's regulatory functions to the Federal Maritime Commission and its promotional functions to the Secretary of Commerce, and applied the last sentence of section 201(b) of the 1936 Act to the Commissioners of the Federal Maritime Commission and all officers and employees of the Commission and to the Maritime Administrator and all officers and employees of the Maritime Administration. This requires the Maritime Administration to administer two sets of conflict of interest laws; namely, section 201(b) of the 1936 Act, and the general conflict of interest laws which are applicable to all government employees (Chapter 11 of title 18 U.S.C.). To avoid this duplication, section 34 of the bill would amend the last sentence of section 201(b) so that it would be applicable only to the Federal Maritime Commissioners and the officers and employees of the Commission. The Maritime Administrator and all officers and employees of the Maritime Administration would continue to be subject to the provision of chapter 11 of title 18 U.S.C.

SEC. 35. Section 35 of the bill would make an amendment of Reorganization Plan No. 21 of 1950 similar to the amendment section 34 would make to section 201(b) of the 1936 Act.

SEC. 36. Section 36 of the bill would make amendment of Reorganization Plan No. 7 of 1961 similar to the amendment section 34 of the bill would make to section 201(b) of the Act.

SEC. 37. The Miller Act [46 Stat. 793; 40 U.S.C. 270a] provides that any contractor constructing a public work in excess of $2,000 shall furnish a performance bond for the protection of the United States and a payment bond for the protection of persons furnishing materials and labor. A vessel constructed for the United States, or repairs to a vessel owned by the United States, constitute a public work within the meaning of this statute. Most of the ship construction in which the Maritime Administration participates is subsidized under section 504 of the Merchant Marine Act, 1936, and the Miller Act does not apply to this construction, because the private operator rather than the United States obtains title to the vessel. With respect to this construction, we do not require the successful bidder to obtain performance and payment bonds if he has financial assets of a magnitude sufficient to cover its performance and payment obligations. The Maritime Administration is required by the Miller Act to obtain performance and payment bonds when it constructs ships under the Economy Act for other government agencies; when it constructs ships under section 502 of the Merchant Marine Act, 1936, whereby it obtains title and agrees to sell the ship to an operator; when it repairs a vessel, such as in the process of breaking it out of the reserve fleet for general agency operations; and when it constructs ships under title VII of the Act. Section 36 of the bill would authorize the Secretary of Commerce to waive the provisions of the Miller Act. We would exercise this authority only if the successful bidder had sufficient financial assets to cover his performance and payment obligations. When such bonds can be waived, the cost of the ship is reduced, because the cost of the bonds is included in the bid. The Army, Navy, Air Force and Coast Guard now have au-

hority to waive the provisions of the Miller ct.

SEC. 38 of the bill provides that the amend- ents made by the bill shall not affect exist- g contracts, but at the request of the opera- or the Secretary of Commerce may amend y operating-differential subsidy contract include all (but not less than all) of the endments made by the bill. The section rther provides that if any contract is ended to include all such amendments, e operator's recapture period shall be osed as of the effective date of the amend- ent and recapture shall be computed on e basis of the shortened period. In deter- ining the rights and obligations of the con- actor under the contract, the amendments the contract would be required to provide at, with respect to seafaring personnel, the peal of section 805(c) of the Act is retro- tive. Under this provision, wages paid to afaring personnel in excess of $25,000 would e taken into account on a retroactive basis nder the Act. The section also authorizes e Secretary to permit transfers from the ecial reserve fund to the capital reserve nd.

SEC. 39 of the bill establishes a Commis- on on American Shipbuilding to review the atus of the American shipbuilding indus- y, to determine whether the industry can hieve a level of productivity by 1976 so that nstruction-differential subsidy payable ill not exceed 35 percent of United States nstruction costs and to recommend the eps that should be taken by industry and vernment to improve the competitive posi- on of the industry. If the Commission con- udes that construction-differential subsidy nnot be reduced to 35 percent, the Com- ission is to recommend alternatives to the esent ship construction program. The Com- ission would be required to report within years of the enactment of the bill or if the ecretary of Commerce shall have given the ommission notice that a contract requiring construction differential in excess of the ecified percentage goals has been entered to, the Commission shall report within six onths of such notification.

OMPARATIVE TEXT SHOWING THE CHANGES THE DRAFT BILL "TO AMEND THE MERCHANT MARINE ACT, 1936" WOULD MAKE IN EXIST- ING LAW

NOTE.—Deletions are shown by brackets; w material is printed in italic.

Sec. 101. It is necessary for the National fense and development of its foreign and mestic commerce that the United States all have a merchant marine (a) sufficient carry its domestic water-borne commerce d a substantial portion of the water-borne port and import foreign commerce of the ited States and to provide shipping [serv- e on all routes] *capacity* essential for main- ining the flow of such domestic and for- gn water-borne commerce at all times, (b) pable of serving as a naval and military xiliary in time of war or national emer- ncy, (c) owned and operated under the ited States flag by citizens of the United ates insofar as may be practicable, and) composed of the best-equipped, safest, d most suitable types of vessels, con- ructed in the United States and manned th a trained and efficient citizen person- l. It is hereby declared to be the policy of e United States to foster the development d encourage the maintenance of such a erchant marine.

Sec. 210. It shall be the duty of the [Com- ission] *Secretary of Commerce* to make a rvey of the American merchant marine, as now exists, to determine what additions d replacements are required to carry for- rd the national policy declared in section 1 of this Act, and the [Commission] *Sec- tary of Commerce* is directed to study, per- ct, and adopt a long-range program for placements and additions to the American merchant marine so that as soon as practica- ble the following objectives may be accom- plished:

First, the creation of an adequate and well- balanced merchant fleet, including vessels of all types, to provide shipping *capacity* [serv- ice on all routes] essential for maintaining the flow of the foreign commerce of the United States, the vessels in such fleet to be so designed as to be readily and quickly con- vertible into transport and supply vessels in a time of national emergency. In planning the development of such a fleet the [Com- mission] *Secretary of Commerce* is directed to cooperate closely with the Navy Depart- ment as to national-defense needs and the possible speedy adaptation of the merchant fleet to national-defense requirements.

Second, the ownership and the operation of such a merchant fleet by citizens of the United States insofar as may be practicable.

Third, the planning of vessels designed to afford the best and most complete protec- tion for passengers and crew against fire and all marine perils.

Sec. 211. The [Commission] *Secretary of Commerce* is authorized and directed to in- vestigate, determine, and keep current rec- ords of—

(a) The ocean services, routes, and lines from ports in the United States, or in a Ter- ritory, district, or possession thereof, to for- eign markets, which are, or may be, deter- mined by the [Commission] *Secretary of Commerce* to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States, and in reaching [its] *his* determination the [Commission] *Secretary of Commerce* shall consider and give due weight to the cost of maintaining each of such steamship lines, the probability that any such line cannot be maintained except at a heavy loss dispro- portionate to the benefit accruing to foreign trade, the number of sailings and types of vessels that should be employed in such lines, and any other facts and conditions that a prudent businessman would consider when dealing with his own business, with the added consideration, however, of the in- tangible benefit the maintenance of any such line may afford to the foreign commerce of the United States and to the national de- fense;

(b) The bulk cargo carrying services that should, for the promotion, development, ex- pansion and maintenance of the foreign commerce of the United States and for the national defense or other national require- ments be provided by United States flag ves- sels whether or not operating on particular services, routes or lines.

[b](c) The type, size, speed, and other re- quirements of the vessels, including express- liner or super-liner vessels, which should be employed in such services or on such routes or lines, and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain, and permanent service, *or which should be em- ployed to provide the bulk cargo carrying services necessary to the promotion, mainte- nance, and expansion of the foreign com- merce of the United States and its national defense or other national requirements whether or not such vessels operate on a particular service, route or line;*

[c](d) The relative cost of construction of comparable vessels in the United States and in foreign countries;

[d](e) The relative cost of marine insur- ance, maintenance, repairs, wages and sub- sistence of officers and crews, and all other items of expense, in the operation of com- parable vessels [in particular services, routes, and lines] under the laws, rules, and regula- tions of the United States and under those of the foreign countries whose vessels are substantial competitors of any such Ameri- can [service, route, or line] *vessel*;

[e](f) The extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine;

[f](g) The number, location, and efficiency of the shipyards existing on the date of the enactment of this Act or thereafter built in the United States;

[g](h) To investigate and determine what provisions of this Act and other Acts relating to shipping should be made applicable to aircraft engaged in foreign commerce in order to further the policy expressed in this Act, and to recommend appropriate legisla- tion to this end;

[h](i) The advisability of enactment of suitable legislation authorizing the [Com- mission] *Secretary of Commerce*, in an eco- nomic or commercial emergency, to aid the farmers and cotton, coal, lumber, and ce- ment producers in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the [Com- mission] *Secretary of Commerce*, until such time as the [Commission] *Secretary of Com- merce* shall deem such special rate reduc- tion and operation unnecessary for the bene- fit of the American farmers and such pro- ducers; and

[i](j) New designs, new methods of con- struction, and new types of equipment for vessels; the possibilities of promoting the carrying of American foreign trade in Ameri- can vessels; and intercoastal and inland water transportation, including their rela- tion to transportation by land and air.

Sec. 501. (a) [Any citizen of the United States] *Any shipyard in the continental United States of America* may make applica- tion to the [Commission] *Secretary of Com- merce* for a construction-differential subsidy to aid in the construction of a new vessel to be used in the foreign commerce of the United States. No such application shall be approved by the [Commission] *Secretary of Commerce* unless [it] *he* determines that (1) the plans and specifications call for a new vessel which will meet the requirements of the foreign commerce of the United States, will aid in the promotion and development of such commerce, and be suitable for use by the United States for national defense or military purposes in time of war or national emergency; [(2) the applicant possesses the ability, experience, financial resources and other qualifications necessary to enable it to operate and maintain the proposed new vessel,] and [(3)] (2) the granting of the aid applied for is reasonably calculated [to replace worn-out or obsolete tonnage with new and modern ships, or otherwise] to carry out effectively the purposes and policy of this Act. [The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price shall not re- strict the lawful or proper use or operation of the vessel except to the extent expressly re- quired by law.] *The Secretary of Commerce may give preferred consideration to applica- tions that will tend to reduce construction- differential subsidies and that propose the construction of ships of high transport capa- bility and productivity.*

(b) The [Commission] *Secretary of Com- merce* shall submit the plans and specifica- tions for the proposed vessel to the Navy Department for examination thereof and suggestion for such changes therein as may be deemed necessary or proper in order that such vessel shall be suitable for economical and speedy conversion into a naval or mili- tary auxiliary, or otherwise suitable for the use of the United States Government in time of war or national emergency. If the Secretary of the Navy approves such plans and specifications as submitted or as modi-

fied, in accordance with the provisions of this subsection, he shall certify such approval to the [Commission] *Secretary of Commerce*.

(c) Any citizen of the United States *or any shipyard in the continental United States* may make application to the [Commission] *Secretary of Commerce* for a construction-differential subsidy to aid in reconstructing or reconditioning any vessel that is to be used in the foreign commerce of the United States. If the [Commission] *Secretary of Commerce*, in the exercise [its] *his* discretion, shall determine that the granting of the financial aid applied for is reasonably calculated to carry out effectively the purposes and policy of this Act, the [Commission] *Secretary of Commerce* may approve such application and enter into a contract or contracts with the applicant therefor providing for the payment by the United States of a construction-differential subsidy that is to be ascertained, determined, controlled, granted, and paid, subject to all the applicable conditions and limitations of this title and under such further conditions and limitations as may be prescribed in the rules and regulations the [Commission] *Secretary of Commerce* has adopted as provided in section 204(b) of this Act; but the financial aid authorized by this subsection shall be extended to reconstruction or reconditioning only in exceptional cases and after a thorough study and a formal determination by the [Commission] *Secretary of Commerce* that the proposed reconstruction or reconditioning is consistent with the purposes and policy of this Act.

(d) Whenever a construction-differential subsidy is paid for the construction, reconstruction or reconditioning of a vessel under this title V the Secretary of Commerce may require that such new vessel or reconstructed vessel shall be operated only on certain services, routes or lines or in certain bulk cargo carrying services and that the operator shall be approved by the Secretary of Commerce. Such requirements shall run with the title to the vessel and shall be binding on all owners thereof. Upon application of the owner, the Secretary may from time to time modify or rescind such requirements.

Sec. 502. (a) If the Secretary of the Navy certifies his approval under section 501(b) of this Act, and the [Commission] *Secretary of Commerce* approves the application, [it] *he* may secure [, on behalf of the applicant,] bid for the construction of the proposed vessel according to the approved plans and specifications. If the bid of the shipbuilder who is the lowest responsible bidder is determined by the [Commission] *Secretary of Commerce* to be fair and reasonable, the [Commission] *Secretary of Commerce* may approve such bid, and [if such approved bid is accepted by the applicant, the Commission is authorized to] enter into a contract with the successful bidder for the construction, outfitting, and equipment of the proposed vessel, and for the payment by the [Commission] *Secretary of Commerce* to the shipbuilder, on terms to be agreed upon in the contract, of the contract price of the vessel, out of the construction fund hereinbefore referred to, or out of other available funds. Concurrently with entering into such contract with the shipbuilder, the [Commission] *Secretary of Commerce* is authorized to enter into a contract [with the applicant for the purchase by him] *for the sale* of such vessel upon its completion, *to a citizen of the United States, if the Secretary of Commerce determines that such citizen possesses the ability, experience, financial resources, and other qualifications necessary to enable it to operate and maintain the vessel,* at a price corresponding to the estimated cost, as determined by the [Commission] *Secretary of Commerce* pursuant to the provisions of this Act, of building such vessel in a foreign shipyard.

(b) The amount of the reduction in selling price which is herein termed "construction differential subsidy" may equal, but not exceed, the excess of the bid of the shipbuilder construction the proposed vessel (excluding the cost of any features incorporated in the vessel for national defense uses, which shall be paid by the Secretary in addition to the subsidy), over the fair and reasonable estimate of cost, as determined by the Secretary, of [the construction of the proposed vessel] *the construction of that type vessel* if it were constructed under similar plans and specifications (excluding national defense features as above provided) in a foreign shipbuilding center which is deemed by the Secretary to furnish a fair and representative example for the determination of the estimated foreign cost of construction of vessels of the type proposed to be constructed. *The Secretary shall recompute such estimated foreign cost periodically, as necessary. Between recomputations the construction-differential subsidy shall be based on such estimated foreign cost, adjusted for the increases or decreases in labor and material costs. Such adjustments shall be based on the most reliable available statistics showing such increases or decreases.* The construction differential approved and paid by the Secretary shall not exceed 55 per centum of the construction cost of the vessel, except that in the case of reconstruction or reconditioning of a passenger vessel having the tonnage, speed, passenger accommodations and other characteristics set forth in section 503 of this Act, the construction differential approved and paid shall not exceed 60 per centum of the reconstruction or reconditioning cost (excluding the cost of national defense features as above provided): *Provided, however,* That after June 30, 1970, the construction differential approved by the Secretary shall not exceed in the case of the construction, reconstruction or reconditioning of any vessel, 50 per centum of such cost. When the Secretary finds that the construction-differential [in any case] exceeds [the foregoing applicable percentage of such cost] *the following percentages*:

	Percent
In fiscal year 1971	*45*
In fiscal year 1972	*43*
In fiscal year 1973	*41*
In fiscal year 1974	*39*
In fiscal year 1975	*37*
In fiscal year 1976 and thereafter	*35*

the Secretary may negotiate *with any bidder, whether or not such bidder is the lowest bidder,* and contract *with such bidder, notwithstanding the provisions of section 505 with respect to competitive bidding,* [on behalf of the applicant] to construct, reconstruct, or recondition such vessel in a domestic shipyard at a cost which will reduce the construction-differential to such applicable percentages, *or as close thereto as possible, or less. Commencing with the fiscal year 1972 no construction contract requiring a construction-differential in excess of the applicable percentages set forth in the preceding sentence shall be entered into unless the Secretary shall have given due consideration to the likelihood that the above percentages will not be attained and that the commitment to the ship construction program may not be continued. If the Secretary of Commerce enters into such a contract, he shall notify the Commission on American Shipbuilding of such contract and the Commission on American Shipbuilding shall, not later than six months after such notification, submit its report on the American Shipbuilding industry.* In the event that the Secretary has reason to believe that the bidding in any instance, is collusive, he shall report all of the evidence on which he acted (1) to the Attorney General of the United States, and (2) to the President of the Senate and to the Speaker of the House of Representatives if the Congress shall be in session or if the Congress shall not be in session, then to the Secretary of the Senate and Clerk of the House, respectively.

(c) In such contract *of sale* between the *purchaser* [applicant] and the [Commission] *Secretary of Commerce*, the *purchaser* [applicant] shall be required to make cash payments to the [Commission] *Secretary of Commerce* of not less than 25 per centum of the price at which the vessel is sold to the *purchaser* [applicant]. The cash payments shall be made at the time and in the same proportion as provided for the payments on account of the construction cost in the contract between the shipbuilder and the [Commission] *Secretary of Commerce*. The *purchaser* [applicant] shall pay, not less frequently than annually, interest [at the rate of 3½ per centum per annum] on those portions of the [Commission's] *Secretary of Commerce's* payments as made to the shipbuilder which are chargeable to the *purchaser's portion of the* [applicant's purchase] price of the vessel (after deduction of the *purchaser's* [applicant's] cash payments) *at a rate not less than (i) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the U.S. with remaining periods to maturity comparable to the average maturities of such loans, adjusted to the nearest one-eighth of one per centum, plus (ii) an allowance adequate in the judgment of the Secretary of Commerce to cover administrative costs.* The balance of such purchase price shall be paid by the *purchaser* [applicant], within twenty-five years after delivery of the vessel and in not to exceed twenty-five equal annual installments, the first of which shall be payable one year after the delivery of the vessel by the [Commission] *Secretary of Commerce* to the *purchaser* [applicant]. Interest at the rate *per annum applicable to payments that are chargeable to the purchaser's portion of the price of the vessel* [of 3½ per centum per annum] shall be paid on all such installments of the purchase price remaining unpaid.

(Subsection (d) was repealed by section 2(a) of Public Law 87–877 (76 Stat. 1200)).

(e) If no bids are received for the construction, outfitting, or equipping of such vessel, or if it appears to the [Commission] *Secretary of Commerce* that the bids received from privately owned shipyards of the United States are collusive, excessive, or unreasonable, and if *a citizen of the United States* [the applicant] agrees to purchase said vessel as provided in this section, then, to provide employment for citizens of the United States, the [Commission] *Secretary of Commerce* may have such vessel constructed, outfitted, or equipped at not in excess of the actual cost thereof in a navy yard of the United States under such regulations as may be promulgated by the Secretary of the Navy and the [Commission] *Secretary of Commerce*. In such event the [Commission] *Secretary of Commerce* is authorized to pay for any such vessel so constructed from [its] *his* construction fund. The [Commission] *Secretary of Commerce* is authorized to sell any vessel so constructed, outfitted, or equipped in a navy yard to *a citizen of the United States* [an applicant] for the fair and reasonable value thereof, but at not less than the cost thereof less the equivalent to the construction-differential subsidy determined as provided by subsection (b), such sale to be in accordance with all the provisions of this title.

(f) The Secretary of Commerce, with the advice of and in coordination with the Secretary of the Navy, shall, at least once each year, as required for purposes of this Act, survey the existing privately owned shipyards capable of merchant ship construction, or review available data on such shipyards if deemed adequate, to determine whether their capabilities for merchant ship construction, including facilities and skilled personnel, provide an adequate mobilization base at

strategic points for purposes of national defense and national emergency. The Secretary of Commerce, in connection with ship construction, reconstruction, reconditioning, or remodeling under title VII and section 509, and the Federal Maritime Board, in connection with ship construction, reconstruction, or reconditioning under title V (except section 509), upon a basis of a finding that the award of the proposed construction, reconstruction, reconditioning, or remodeling work will remedy an existing or impending inadequacy in such mobilization base as to the capabilities and capacities of a shipyard or shipyards at a strategic point, and after taking into consideration the benefits accruing from standardized construction, the conditions of unemployment, and the needs and reasonable requirements of all shipyards may allocate such construction, reconstruction, reconditioning, or remodeling to such yard or yards in such manner as it may be determined to be fair, just and reasonable to all sections of the country, subject to the provisions of this subsection. In the allocation of construction work to such yards as herein provided, the [Commission] *Secretary of Commerce* may, after first obtaining competitive bids for such work in compliance with the provisions of this Act, negotiate with the bidders and with other shipbuilders concerning the terms and conditions of any contract for such work, and is authorized to enter into such contract at a price deemed by the [Commission] *Secretary of Commerce* to be fair and reasonable. Any contract entered into by the [Commission] *Secretary of Commerce* under the provisions of this subsection shall be subject to all of the terms and conditions of this Act, excepting those pertaining to the awarding of contracts to the lowest bidder which are inconsistent with the provisions of this subsection. In the event that a contract is made providing for a price in excess of the lowest responsible bid which otherwise would be accepted, such excess shall be paid by the [Commission] *Secretary of Commerce* as a part of the cost of national defense, and shall not be considered as a part of the construction-differential subsidy. In the event that a contract is made providing for a price lower than the lowest responsible bid which otherwise would be accepted, the construction-differential subsidy shall be computed on the contract price in lieu of such bid.

If, as a result of allocation under this subsection, the *purchaser* [applicant] incurs expenses for inspection and supervision of the vessel during construction and for the delivery voyage of the vessel in excess of the estimated expenses for the same services that he would have incurred if the vessel had been constructed by the lowest responsible bidder the Secretary of Commerce (with respect to construction under title V, except section 509) shall reimburse the *purchaser* [applicant] for such excess, less one-half of any gross income the *purchaser* [applicant] receives that is allocable to the delivery voyage minus one-half of the extra expenses incurred to produce such gross income, and such reimbursement shall not be considered part of the construction-differential subsidy: Provided, That no interest shall be paid on any refund authorized under this Act. If the vessel is constructed under section 509 the Secretary of Commerce shall reduce the price of the vessel by such excess, less one-half of any gross income (minus one-half of the extra expenses incurred to produce such gross income) the *purchaser* [applicant] receives that is allocable to the delivery voyage. In the case of a vessel that is not to receive operating-differential subsidy, the delivery voyage shall be deemed terminated at the port where the vessel begins loading. In the case of a vessel that is to receive operating-differential subsidy, the delivery voyage shall be deemed terminated when the vessel begins loading at a United States port [on any] *in an* essential service [of the operator]. In either case, however, the vessel owner shall not be compensated for excess vessel delivery costs in an amount greater than the expenses that would have been incurred in delivering the vessel from the shipyard at which it was built to the shipyard of the lowest responsible bidder. If as a result of such allocation, the expenses the *purchaser* [applicant] incurs with respect to such services are less than the expenses he would have incurred for such services if the vessel had been constructed by the lowest responsible bidder, the *purchaser* [applicant] shall pay to the Secretary of Commerce an amount equal to such reduction and, if the vessel was built with the aid of construction-differential subsidy, such payment shall not be considered a reduction of the construction-differential subsidy.

(g) Upon the [agreement] *application* of [an applicant under this title] *any citizen of the United States* to purchase any vessel acquired by the [Commission] *Secretary of Commerce* under the provisions of section 215, the [Commission] *Secretary of Commerce* is authorized to sell such vessel to the applicant for the fair and reasonable value thereof, but at not less than the cost thereof to the [Commission] *Secretary of Commerce*, less depreciation at the rate of 4 percentum per annum from the date of completion, excluding the cost of national-defense features added by the [Commission] *Secretary of Commerce*, less the equivalent of any applicable construction-differential subsidy as provided by subsection (b), such sale to be in accordance with all the provisions of this title. Such vessel shall thereupon be eligible for an operating-differential subsidy under title VI of this Act, notwithstanding the provisions of section 601(a)(1), and section 610 (1), or any other provision of law.

Sec. 503. Upon completion of the construction of any vessel in respect to which a construction-differential subsidy is to be allowed under this title and its delivery by the shipbuilder to the [Commission] *Secretary of Commerce*, the vessel shall be documented under the laws of the United States, and concurrently therewith, or as soon thereafter as practicable, the vessel shall be delivered with a bill of sale to the [applicant] *purchaser* with warranty against liens, pursuant to the contract of [purchase between the applicant and the Commission] *sale between the purchaser and the Secretary of Commerce*. The vessel shall remain documented under the laws of the United States for not less than twenty-five years, or so long as there remains due the United States any principal or interest on account of the purchase price, whichever is the longer period. At the time of delivery of the vessel the [applicant] *purchaser* shall execute and deliver a first-preferred mortgage to the United States to secure payment of any sums due from the [applicant] *purchaser* in respect to said vessel: Provided, That notwithstanding any other provisions of law, the payment of any sums due in respect to a passenger vessel purchased under section 4(b) of the Merchant Ship Sales Act of 1946, reconverted or restored for normal operation in commercial services, or in respect to a passenger vessel purchased under title V of this Act, which is delivered subsequent to March 8, 1946, and which (i) is of not less than ten thousand gross tons, (ii) has a designed speed approved by the [Commission] *Secretary of Commerce* but not less than eighteen knots, (iii) has accommodations for not less than two hundred passengers, and, (iv) is approved by the Secretary of Defense as being desirable for national defense purposes, may, with the approval of the [Commission] *Secretary of Commerce*, be secured only by a first-preferred mortgage on said vessel. With the approval of the [Commission] Secretary of Commerce such preferred mortgage may provide that the sole recourse against the purchaser of such a passenger vessel under such mortgage, and any of the notes secured thereby, shall be limited to repossession of the vessel by the United States and the assignment of insurance claims, if the purchaser shall have complied with all provisions of the mortgage other than those relating to the payment of principal and interest when due, and the obligation of the purchaser shall be satisfied and discharged by the surrender of the vessel, and all right, title, and interest therein to the United States. Such vessel upon surrender shall be (i) free and clear of all liens and encumbrances whatsoever, except the lien of the preferred mortgage, (ii) in class, and (iii) in as good order and condition, ordinary wear and tear excepted, as when acquired by the purchaser, except that any deficiencies with respect to freedom from encumbrances, condition, and class, may, to the extent covered by valid policies of insurance, be satisfied by the assignment to the United States of claims of the purchaser under such policies of insurance. The purchaser shall also comply with all the provisions of section 9 of the Merchant Marine Act, 1920.

Sec. 504. [Where an eligible applicant under the terms of this title desires to finance the construction of a proposed vessel according to approved plans and specifications rather than purchase the same vessel from the Commission as hereinabove authorized, the Commission may permit the applicant to obtain and submit to it competitive bids from domestic shipyards for such work. If the Commission considers the bid of the shipyard in which the applicant desires to have the vessel built fair and reasonable, it may approve such bid and become a party to the contract or contracts or other arrangements for the construction of such proposed vessel and may agree to pay a construction-differential subsidy in an amount determined by the Commission in accordance with section 502 of this title, and for the cost of national-defense features. The construction-differential subsidy and payments for national-defense features shall be based on the lowest responsible domestic bid.]

If a qualified purchaser under the terms of this title desires to purchase a vessel to be constructed in accordance with an application for construction-differential subsidy under this title, the Secretary of Commerce may, in lieu of contracting to pay the entire cost of the vessel under section 502, contract to pay only construction-differential subsidy and the cost of national-defense features to the shipbuilder constructing such vessel. The construction-differential subsidy and payments for the cost of national-defense features shall be based upon the lowest responsible domestic bid unless the vessel is constructed under a contract negotiated by the Secretary of Commerce as provided in section 502(b) in which event the construction-differential subsidy and payments for the cost of national-defense features shall be based upon such negotiated price. No construction-differential subsidy, as provided in this section, shall be paid unless the said contract or contracts or other arrangements contain such provisions as are provided in this title to protect the interests of the United States as the [Commission] *Secretary of Commerce* deems necessary. Such vessel shall be documented under the laws of the United States as provided in section 503 of this title. [The contract of sale, and the mortgage given to secure the payment of the unpaid balance of the purchase price, shall not restrict the lawful or proper use or operation of the vessel, except to the extent expressly required by law.]

Sec. 505. [(a)] All construction in respect of which a construction-differential subsidy is allowed under this title shall be performed in a shipyard within the continental limits of the United States as the result of competitive bidding, after due advertisement, with the right reserved in [the applicant to re-

ject, and in] the [Commission] *Secretary of Commerce* to disapprove, any or all bids. [In all such construction the shipbuilder, subcontractors, materialmen, or suppliers shall use.] *Any material or other articles used in the construction of a vessel and included in the United States construction cost for the purpose of determining the construction-differential subsidy payable and all major components of the hull and superstructure shall,* so far as practicable, [only articles, materials, and supplies] *be* of the growth, production, or manufacture of the United States as defined in paragraph k of section 401 of the Tariff Act of 1930. No shipbuilder shall be deemed a responsible bidder unless he possesses the ability, experience, financial resources, equipment, and other qualifications necessary properly to perform the proposed contract. Each bid submitted to the [Commission] *Secretary of Commerce* shall be accompanied by all detailed estimates upon which it is based. The [Commission] *Secretary of Commerce* may require that the bids of any subcontractors, or other pertinent data, accompany such bid. All such bids and data relating thereto shall be kept permanently on file. For the purposes of this [subsection] *title V,* the term "continental limits of the United States" includes the States of Alaska and Hawaii.

[(b) No contract shall be made for the construction of any vessel under this Act unless the shipbuilder shall agree (1) to make a report under oath to the Commission upon completion of the contract, setting forth in the form prescribed by the Commission the total contract price, the total cost of performing the contract, the amount of the shipbuilder's overhead charge to such cost, the net profits and the percentage such net profits bears to the contract price, and such other information as the Commission shall prescribe; (2) to pay to the Commission profit, as hereinafter provided shall be determined by the Commission, in excess of 10 per centum of the total contract prices of such contracts within the scope of this section as are completed by the particular contracting party within the income taxable year, such amount to become the property of the United States, but the surety under such contracts shall not be liable for the payment of such excess profit: Provided, That is there is a net loss on all such contracts or subcontracts completed by the particular contractor or subcontractor within any income taxable year, such net loss shall be allowed as a credit in determining the excess profit, if any, for the next succeeding income taxable year: *Provided,* That if such amount is not voluntarily paid, the Commission shall determine the amount of such excess profit and collect it in the same manner that other debts due the United States may be collected; (3) to make no subdivisions of any contract or subcontract for the same article or articles for the purpose of evading the provisions of this Act, and any subdivision of any contract or subcontract involving an amount in excess of $10,000 shall be subject to the conditions herein prescribed; (4) that the books, files, and all other records of the shipbuilder, or any holding, subsidiary, affiliated, or associated company, shall at all times be subject to inspection and audit by any person designated by the Commission, and the premises, including ships under construction, of the shipbuilder, shall at all reasonable times be subject to inspection by the agents of the Commission; and (5) to make no subcontract unless the subcontractor agrees to the foregoing conditions: *Provided,* That this section shall not apply to contracts or subcontracts for scientific equipment used for communication and navigation as may be so designated by the Commission, nor to contracts or other arrangements entered into under this title by the terms of which the United States undertakes to pay only for national-defense features.]

[(c) The method of determining the shipbuilder's profit shall be prescribed by the Commission: *Provided,* That in computing such profits no salary of more than $25,000 per year to any individual shall be considered as a part of the cost of building such ship, and the Commission shall scrutinize construction costs and overhead expenses to determine that they are fair, just, and not in excess of a reasonable market price for commodities or goods or services purchased or charged.]

[(d) The Commission may, with the consent of the Secretary of the Treasury, utilize the services of Treasury Department employees engaged in similar functions in the determination or collection of shipbuilder profits in naval construction.]

[(e) If the shipbuilder whose bid has been approved by the Commission and accepted by the applicant, as provided in section 502 of this title, shall refuse to agree to any of the requirements of this section, the Commission is authorized to rescind its approval of such bid and to advertise for new bids, or, in its discretion, the Commission may have the vessel or vessels in question constructed in a United States navy yard.]

SEC. 510(a) When used in this section—

(1) The term "obsolete vessel" means a vessels, each of which (A) is of not less than one thousand three hundred and fifty gross tons, (B) [is not less than seventeen years old and, in the judgment of the Commission, is obsolete or inadequate for successful operation in the domestic or foreign trade of the United States] *in the judgment of the Secretary of Commerce, should, by reason of age, obsolescence or otherwise, be replaced in the public interest* and (C) *has been owned* [is owned] by a citizen or citizens of the United States [and has been owned by such citizen or citizens] for at least three years immediately prior to the date of acquisition hereunder [:Provided, That until June 30, 1965, the term "obsolete vessel" shall mean a vessel or vessels, each of which (A) is of not less than one thousand three hundred and fifty gross tons, (B) is not less than twelve years old, and (C) is owned by a citizen or citizens of the United States and has been owned by such citizen or citizens for at least three years immediately prior to the date of acquisition hereunder].

Sec. 510. (1) In order to improve the type and suitability of vessels operating in the domestic and foreign commerce of the United States and to further the policies of this Act, the Secretary of Commerce is authorized (subject to the provisions of this subsection) to acquire at any time before July 5, [1970] *1972,* vessels of one thousand five hundred gross tons or over [which were constructed or contracted for by the United States shipyards before September 3, 1945,] in exchange for more modern or efficient [war-built vessels (which are defined for purposes of this subsection as] oceangoing vessels of one thousand five hundred gross tons or over [which were constructed or contracted for by the United States shipyards during the period beginning September 3, 1939, and ending September 2, 1945)] owned by the United States. Such exchanges shall be subject to the following conditions:

Sec. 601 (a) The [Commission] *Secretary of Commerce* is authorized and directed to consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used in an essential service in the foreign commerce of the United States or in such service and in cruises authorized under section 613 of this title. *In this title VI the term essential service means the operation of a vessel on a service, route or line described in section 211(a) or in bulk cargo carrying service described in section 211(b).* No such application shall be approved by the [Commission] *Secretary of Commerce* unless [it] *he* determines that (1) the operation of such vessel or vessels in [such service, route, or line] *an essential service* is required to meet foreign-flag competition and to promote the foreign commerce of the United States except to the extent such vessels are to be operated on cruises authorized under section 613 of this title, and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date; (2) the applicant owns, or can and will build or purchase, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate [and maintain the service, route, or line] *in an essential service* in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the vessel or vessels as to meet competitive conditions and promote foreign commerce; (4) the granting of the aid applied for is necessary to place the proposed operations of the vessel or vessels on a parity with those of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of this Act. To the extent the application covers cruises, as authorized under section 613 of this title, the Board may make the portion of this last determination relating to parity on the basis that any foreign flag cruise from the United States competes with any American flag cruise from the United States.

Sec. 602. Except with respect to cruises authorized under section 613 of this title, no contract for an operating-differential subsidy shall be made by the [Commission] *Secretary of Commerce* for the operation of a vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the [Commission] *Secretary of Commerce,* after a full and complete investigation and hearing, shall determine that on operating subsidy is necessary to meet competition of foreign flag ships.

SEC. 603. (a) If the [Commission] *Secretary of Commerce* approves the application, [it] *he* may enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section, for the operation of such vessel or vessels in *an essential service* [such service, route, or line,] and in cruises authorized under section 613 of this title for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this Act, as the [Commission] *Secretary of Commerce* shall require to effectuate the purposes and policy of this Act, including a performance bond with approved sureties, if such bond is required by the [Commission] *Secretary of Commerce.*

(b) Such contract shall provide that the amount of the operating-differential subsidy for the operation of vessels in an *essential service* [on a service, route or line] shall [not exceed the excess of] *be the difference between the subsidizable wage cost of United States officers and crews,* the fair and reasonable cost of insurance, *subsistence of officers and crews on passenger vessels, a defined in section 613 of this Act,* [maintenance, repairs not compensated by insurance, wages and subsistence of officers and crews, and any other items of expense in which the Commission shall find and determine that the applicant is at a substantial disadvantage in competition with vessels of the foreign country hereinafter referred to,] *and with respect to vessels constructed under a contract awarded before January 1, 1970, maintenance and repairs not compensated by insurance, incurred* in the operation under United States registry of the vessel or ves-

sels covered by the contract, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the contract: *PROVIDED, HOWEVER, That the Secretary of Commerce may, with respect to any vessel in an essential service, other than a vessel which operates as a common carrier on a service, route or line, pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a foreign country.* For any period during which a vessel cruises as authorized by section 613 of this Act, operating-differential subsidy shall be computed as though the vessel were operating on the essential service to which the vessel is assigned: PROVIDED, HOWEVER, That if the cruise vessel calls at a port or ports outside of its assigned service, but which is served with passenger vessels (as defined in section 613 of this Act) by another subsidized operator at an operating-differential subsidy rate for wages lower than the cruise vessel has on its assigned essential service, the operating-differential subsidy rates for each of the subsidizable items for each day (a fraction of a day to count as a day) that the vessel stops at such port shall be at the respective rates applicable to the subsidized operator regularly serving the area.

(c)(1) When used in this section—

(A) The term "collective bargaining costs" means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense incurred by the applicant under a collective bargaining agreement relating to the employment of United States officers and crews in the operation of a vessel except subsistence of officers and crews and costs relating to:

(i) those officers or members of the crew that the Secretary of Commerce has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of such vessel, or

(ii) those officers or members of the crew that the Secretary of Commerce has found, prior to March 1, 1970, to be unnecessary for the efficient and economical operation of the vessel.

(B) The term "base period costs" means for the base period beginning July 1, 1970 and ending June 30, 1971, the collective bargaining costs as of January 1, 1971, less all other items of cost that have been disallowed by the Secretary of Commerce prior to March 1, 1970, and not already excluded from collective bargaining costs under subparagraph (A)(i) or (A)(ii) of this subsection. In any subsequent base period the term "base period costs" means the average of the subsidizable wage cost of United States officers and crews for the preceding annual period ending June 30, (calculated without regard to the limitation of the last sentence of paragraph (D) of this subdivision but increased or decreased by the increase or decrease in the index described in subdivision (3) of this subsection from January 1 of such annual period to January 1 of the base period) and the collective bargaining costs as of January 1 of the base period; Provided, That in no event shall the base period cost be such that the difference between the base period cost and the collective bargaining cost as of January 1 of any base period subsequent to the first base period, exceeds five-fourths of one percent of the collective bargaining costs as of such January 1 multiplied by the number of years that have elapsed since the most recent base period.

(C) The term "based period" means any annual period beginning July 1, and ending June 30 with respect to which a base period cost is established.

(D) The term 'subsidizable wage costs of United States officers and crews" in any period other than a base period means the most recent base period costs inreased or decreased by the increase or decrease from January 1 of such base period to January 1 of such period in the index described in subdivision (3) hereof, and with respect to a base period means the base period cost. The subsidizable wage costs of United States officers and crews in any period other than a base period shall not be less than 98 percent of the collective bargaining costs as of January 1 of such period nor greater than 110 percent of such collective bargaining costs.

(2) The Secretary of Commerce shall determine the collective bargaining costs on ships in subsidized operation as of January 1, 1971 and as of each January 1 thereafter, and shall as of intervals of not less than two years nor more than four years, establish a new base period cost.

(3) The Bureau of Labor Statistics shall compile the index referred to in subdivision (1). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective bargaining agreements with an equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in all private non-agricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

(d) In determining foreign manning for purposes of this section in the foreign manning established for any foreign ship type with respect to any base period shall not be redetermined until the end of such period.

(e) The wage subsidy shall be payable monthly for the voyages completed during the month, upon the operator's certification that the subsidized vessels were in authorized service during the month.

[c](*f*) The amount of [such] *the insurance and maintenance and repair and subsistence of officers and crews* subsidy shall be determined and payable on the basis of a final accounting made as soon as practicable after the end of each year or other period fixed in the contract. The [Commission] *Secretary of Commerce* may provide for in the contract, or otherwise approve, the payment from time to time during any such period of such amounts on account as [it] *he* deems proper. [Effective on and after July 1, 1962,] [s] Such payments on account shall in no case exceed 90 per centum of the amount estimated to have accrued on account of such subsidy, except that, with respect to that part of the subsidy relating to any particular voyage, an additional 5 per centum may be paid to the contractor after such contractor's audit of voyage account for such voyage has been completed and the Secretary of Commerce has verified the correctness of the same. Any such payments shall be made only after there has been furnished to the [Commission] *Secretary of Commerce* such security as [it] *he* deems to be reasonable and necessary to insure refund of any overpayment.

[No such operating-differential subsidy shall be paid until the contractor shall have furnished evidence satisfactory to the Commission that the wages prescribed in accordance with subsection 301(a) of this Act have been paid to the ship's personnel.]

Sec. 605. * * *

(c) No contract shall be made under this title with respect to a vessel to be operated *in an essential service* [on a service, route, or line] served by citizens of the United States which would be in addition to the existing service, or services, unless the [Commission] *Secretary of Commerce* shall determine after proper hearing of all parties that the service already provided by vessels of United States registry [in such service, route, or line] is inadequate, and that in the accomplishment of the purposes and policy of this Act additional vessels should be operated thereon; and no contract shall be made with respect to a vessel operated or to be operated in *an essential service* [a service, route, or line] served by two or more citizens of the United States with vessels of United States registry, if the [Commission] *Secretary of Commerce* shall determine the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in *such essential service,* [competitive services, routes, or lines,] unless following public hearing, due notice of which shall be given to each *operator serving such essential service,* [line serving the route,] the [Commission] *Secretary of Commerce* shall find that it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry. The [Commission] *Secretary of Commerce,* in determining for the purpose of this section whether services are competitive, shall take into consideration the type, size, and speed of the vessels employed, whether passenger or cargo, or combination passenger and cargo vessels, the ports or ranges between which they run, the character of cargo carried, and such other facts as [it] *he* may deem proper.

Sec. 606. Every contract for an operating-differential subsidy under this title shall provide (1) that the amount of the future payments to the contractor shall be subject to review and readjustment from time to time, but not more frequently than once a year, at the instance of the [Commission] *Secretary of Commerce* or of the contractor. If any such readjustment cannot be reached by mutual agreement, the [Commission] *Secretary of Commerce,* on [its] *his* own motion or on the application of the contractor, shall, after a proper hearing, determine the facts and make such readjustment in the amount of such future payments as [it] *he* may determine to be fair and reasonable and in the public interest. The testimony in every such proceeding shall be reduced to writing and filed in the office of the [Commission] *Secretary of Commerce.* [Its] *His* decision shall be based upon and governed by the changes which may have occurred since the date of the said contract, with respect to the items theretofore considered and on which such contract was based, and other conditions affecting shipping, and shall be promulgated in a formal order, which shall be accompanied by a report in writing in which the [Commission] *Secretary of Commerce* shall state [its] *his* findings of fact; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the [Commission] *Secretary of Commerce* shall determine, for any periods in which the vessel or vessels are laid up; (3) that if the [Commission] *Secretary of Commerce* shall determine that a change in [the service, route, or line] *an essential service* which is receiving an operating-differential subsidy under this title, is necessary in the accomplishment of the purposes of this Act, [it] *he* may make such change upon such readjustment of payments to the contractor as shall be arrived at by the method prescribed in clause (1) of these conditions; (4) that

if at any time the contractor receiving an operating-differential subsidy claims that he cannot maintain and operate his vessels [on such service, route, or line] *in an essential service,* with a reasonable profit upon his investment, and applies to the [Commission] *Secretary of Commerce* for a modification or rescission of his contract to maintain such *essential service* [service, route, or line] and the [Commission] *Secretary of Commerce* determines that such claim is proved, the [Commission] *Secretary of Commerce* shall modify or rescind such contract and permit the contractor to withdraw such vessels from such [service, route, or line] *essential service,* upon a date fixed by the [Commission] *Secretary of Commerce,* and upon the date of such withdrawal the further payment of the operating-differential subsidy shall cease and the contractor be discharged from any further obligation under such contract; [(5) that when at the end of any ten year period during which an operating-differential subsidy has been paid under a contract or consecutive contracts (such period to be computed from the end of the operator's last completed recapture period regardless of its duration, or from the beginning of subsidized operations if the operator has not previously completed a recapture period), or when prior to the end of such ten year period subsidized operations shall be finally terminated, if the net profit of the contractor on his subsidized vessel and services incident thereto during such period or time (without regard to capital gains and capital losses), after deduction of depreciation charges based upon a life expectancy of the subsidized vessels determined as provided in section 607(b), has averaged more than 10 per centum per annum upon the contractor's capital investment necessarily employed in the operation of the subsidized vessels, services, routes, and lines, the contractor shall pay to the United States an amount equal to one-half of such profits in excess of 10 per centum per annum as partial or complete reimbursement for operating-differential subsidy payments received by the contractor for such recapture period, but the amount of excessive profit so recaptured shall not in any case exceed the amount of the operating-differential subsidy payments theretofore made to the contractor for such period under such contract or consecutive contracts and the repayment of such reimbursement to the Commission shall be subject to the provisions of section 607; (6)] (5) that the contractor shall conduct his operations with respect to [the vessel's services, routes, and lines] *essential services* and any cruises authorized under section 613 of this title, covered by his contract in the most economical and efficient manner, [but with due regard to the wage and manning scales and working conditions prescribed by the Commission as provided in title III]; and [7] (6) that whenever practicable [the operator shall use] *an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items* only articles, materials, and supplies of the growth, production, and manufacture of the United States, as defined in section 505a herein, except when it is necessary to purchase supplies [and equipment] outside the United States to enable such vessel to continue and complete her voyage [and the operator shall perform repairs to subsidized vessels] *and an operator who receives subsidy with respect to repairs shall perform such repairs* within the continental limits of the United States, except in an emergency. For the purpose of this section, the term "continental limits of the United States" includes the States of Alaska and Hawaii.

Sec. 601. [(a) Every contract for an operating-differential subsidy made under authority of this title shall provide that the contractor shall be entitled to annually withdraw from net earnings of subsidized vessels and services incident thereto as profit, if the contractor is a natural person or a partnership, or may pay to its shareholders or stockholders, as dividends, if the contractor is an association or corporation, a sum not in excess of 10 per centum per annum on the contractor's capital necessarily employed in his business, except subject to the further provisions of this section, which likewise shall be incorporated in such contract.]

[(b).

(a) [To insure the prompt payment of the contractor's obligations to the United States and the replacement of the contractor's subsidized vessels as may be required, the contractor] *Any citizen of the United States who owns vessels that operate in the United States foreign trade and who has agreed with the Secretary of Commerce that he will replace those vessels with vessels built in the continental United States including Alaska and Hawaii, for operation in the United States foreign trade, or that he will build additional vessels in the continental United States including Alaska and Hawaii, for operation in the United States foreign trade,* shall create and maintain, out of gross earnings [, during the life of such contract,] a "capital reserve fund," in such depository or depositories *and for such period* as may be approved by the [Commission] *Secretary of Commerce.* In this fund the [contractor] *owner* shall deposit annually or oftener, as the [Commission] *Secretary of Commerce* may require, an amount equal to the annual depreciation charges on the [contractor's vessels on which the operating differential is being paid,] *owner's vessels operating in the United States foreign trade,* such depreciation charges to be computed on a *twenty year life expectancy of liquid bulk carriers and on a* twenty-five year life expectancy of [the subsidized] *other vessels,* except that the life expectancy of a vessel which shall have been or is to be wholly or partially reconstructed or reconditioned shall upon request be determined jointly by the Secretary of the Treasury and the [Commission] *Secretary of Commerce,* and the depreciation charges on such vessel shall be computed on the life expectancy so determined: Provided, However, That if, during any accounting year, the annual depreciation charges on [the contractor's line of subsidized] *all such* vessels has not been earned, in whole or in part, over and above the annual expense of operation of such vessels (exclusive of said annual depreciation thereon), the [contractor] *owner* shall not be required to deposit in his capital reserve fund for such accounting year a sum in excess of the amount of annual depreciation actually earned *by all such vessels* during that year but shall make up any and all deficiencies in his capital reserve fund as soon as the earnings of [his subsidized] *such* vessels in excess of annual expenses of operation shall permit. The proceeds of all insurance and indemnities received by the [contractor] *owner* on account of total loss of any [subsidized] vessel *operation in the United States foreign trade* and the proceeds of any sale or other disposition of such vessel shall also be deposited in the capital reserve fund.

The [contractor] *owner* shall also deposit in the capital reserve fund, from time to time, such percentage of the annual net profits *from the operation of vessels in the United States foreign trade* [of the contractor's business covered by the contract] as the [Commission] *Secretary of Commerce* shall determine is necessary to further build up a fund for *carrying out his agreement to replace ships or build additional ships* [replacement of the contractor's subsidized ships]; but the [Commission] *Secretary of Commerce* shall not *in any year require the owner to deposit in the capital reserve fund more than 50 per centum of the owner's annual net profits from the operation of vessels in the United States foreign trade, before taxes, for such year* [require the contractor to make such deposit of the contractor's net profits in the capital reserve fund unless the cumulative net profits of the contractor, at the time such deposit is to be made, shall be in excess of 10 per centum per annum from the date the contract was executed]. From the capital reserve fund so created, the [contractor] *owner* may pay the principal, when due, on all notes secured by mortgage on the [subsidized] *owner's* vessels *operating in the United States foreign trade* and may make disbursements for the purchase of replacement vessels or reconstruction of vessels or additional vessels to be employed by the [contractor on an essential foreign trade line, route, or service approved by the Commission] *owner in the United States foreign trade,* and on cruises, if any, authorized under section 613 of this title but payments from the capital reserve fund shall not be made for any other purpose. The [contractor] *owner* may, with the consent of the [Commission] *Secretary of Commerce,* pay from said fund any sums owing but not yet due on notes secured by mortgages on [subsidized] vessels *operating in the United States foreign trade* and may also pay from such fund, with such consent and upon terms and conditions which the Secretary of Commerce shall by regulation prescribe to give priority to the foregoing purposes of the fund [(and with respect to any transfer of funds from the special reserve fund, to give priority to the purposes of that fund)] and to carry out the purposes of this Act, (A) amounts contributed toward research, development, and design expenses incident to new and advanced ship design machinery and equipment, and (B) amounts (1) for the purchase of cargo containers, delivered after June 30, 1959, of a type approved by the Administrator for use in connection with any of the *owner's* [contractor's subsidized] vessels *operating in the United States foreign trade,* (2) for the payment of the principal of any indebtedness incurred for such containers, or (3) to reimburse the [contractor's] *owner's* general funds for expenditures for such purchases or payments. Such cargo containers to the extent paid for out of the capital reserve fund shall be treated as vessels for the purpose of deposits and withdrawals from the capital reserve fund under this section 607, and the regulations and closing agreements relating thereto, except that the depreciation on such cargo containers shall be based upon the life expectancy *determined by the Secretary of Commerce* [used for such containers in the determination of "net earnings" under paragraph (d) (1) of this section 607].

[(c) To obtain the public objects for which the financial aid provided for in such contract is extended and to insure the continued maintenance and successful operation of the subsidized vessels, the contractor shall create and maintain, during the life of such contract, a "special reserve fund" in such depository or depositories as the Commission shall approve.]

[If the profits, without regard to capital gains and capital losses, earned by the business of the subsidized vessels and services incident thereto exceed 10 per centum per annum and exceed the percentage of profits deposited in the capital reserve fund, as provided in subsection (b) of this section, the contractor shall deposit annually such excess profits in this reserve fund. From the special reserve fund the contractor may make the following disbursements and no others.]

[(1) Reimbursement to the contractor's general funds for any losses on the operation of the subsidized vessels and services incident thereto sustained subsequent to the execution of the operating-differential-subsidy contract;]

[(2) Reimbursement to the contractor's

general funds for current operating losses on completed voyages of subsidized vessels whenever the Commission shall determine it is improbable that such current losses will be made up by profits on other voyages during the current year;]

[(3) Payment of amounts due from the contractor to the Commission for reimbursement as provided in clause 5 of section 606, but such reimbursement shall be deferred until the amount on deposit in the special reserve fund shall be sufficiently in excess of 5 per centum of the capital necessarily employed in the business so that payment of such reimbursement to the Commission will not reduce the special reserve fund below a sum equal to such 5 per centum of capital necessarily employed in the business: Provided, That such reimbursement to the Commission, if so deferred, shall be payable upon termination of the contract from any amounts then in the special reserve fund and the capital reserve fund: Provided further, That if any amounts shall have been transferred to the general funds of the contractor from either of such reserve funds and not repaid thereto, or if prepayments of amounts not due before one year after the date of termination of the contract have been made from the capital reserve fund pursuant to subsection (b) of this section, then the balance of such reimbursement not paid out of said reserve funds shall be payable out of any other assets of the contractor, but the amounts so payable from such assets shall not exceed in the aggregate the sum of the amounts so transferred and not repaid, and the amounts of such prepayments;]

[(4) After reimbursement to the contractor's general funds of all operating losses has been made, as provided in clause 1, and after reimbursement to the Commission of all amounts due from the contractor, as determined under clause 5 of section 606, if the amount accumulated in the special reserve fund shall then be in excess of 5 per centum of the capital necessarily employed in the business, the contractor may, if the Commission approves, withdraw some or all of such excess reserve and pay the sum so withdrawn into the contractor's general funds or distribute the sum so withdrawn as a special dividend to the contractor's shareholders or stockholders or as a bonus to officers or employees, as the contractor may determine.]

[(d)](b)(1) The [Commission] *Secretary of Commerce* shall adopt and prescribe rules and regulations for the administration of the reserve funds contemplated by this section. [and shall include therein a definition of the term "net earnings" and the term "capital necessarily employed in the business," as such terms are employed in this section: Provided, however, That the term "net earnings" shall take into account as a proper accounting charge to operation of vessels expense, an annual depreciation charge on the vessels, computed on the economic life of the vessel as provided in section 607(b) and the term "capital necessarily employed in the business" shall not include borrowed capital.] *The Secretary of Commerce and the Secretary of the Treasury are jointly authorized to prescribe all rules and regulations necessary or appropriate to the determination of the owners' tax liability under this section.*

(2) Upon application of the [contractor] *owner*, the [Commission] *Secretary of Commerce*, in [its] *his* discretion, may permit the investment by the [operator] *owner* of some or all of [the contractor's] *his* capital [and special] reserve fund in approved interest-bearing securities, approved by the [Commission] *Secretary of Commerce* upon condition that the interest on such securities shall be deposited in the capital reserve fund.

(3) (A) Upon application of the [contractor] *owner*, the Secretary of Commerce, in his discretion, may permit the [contractor] *owner* to transfer not exceeding 50 per centum of his capital reserve fund [and 50 per centum of his special reserve fund] to a trustee which is incorporated as a bank or trust company under the laws of the United States, or of any State, and which is approved by the Secretary of Commerce, in trust nevertheless for the benefit of the [contractor] *owner* and of the United States as their interests are stated in this section (1) to hold in [separate] trust[s] the principal of the capital [and special] reserve fund[s] so transferred [, one trust for the capital reserve fund and one trust for the special reserve fund]; (2) to invest and reinvest the principal of such trust[s] in such common stocks of corporations organized and existing under the laws of the United States or of the District of Columbia or of any State of the United States which are currently fully listed and registered upon an exchange registered with the Securities and Exchange Commission as a national securities exchange, and which would be acquired by prudent men of discretion and intelligence in such matters who are seeking a reasonable income and the preservation of their capital; (3) to accumulate the income from the capital reserve fund trust in such trust [to pay the income from the special reserve fund trust into the capital reserve fund trust], and to invest and reinvest such income in common stocks in which the trustee is authorized to invest principal under this subdivision (3); and (4) to pay to the [contractor] *owner* and the Secretary of Commerce, as trustees of [the special reserve fund and] the capital reserve fund, after reasonable notice, from the principal and accumulated income of the trust[s] such amounts, in cash, as the [contractor] *owner* and the Secretary of Commerce direct.

(B) Consent by the [contractor] *owner* to an investment which is not authorized by this subdivision (3) shall not be a defense to the trustee. Such common stock trust[s] shall be revocable by the Secretary of Commerce at any time and upon notice of the revocation, the common stock trustee shall reduce the principal and accumulated income of such trust[s] to cash and shall pay such cash to the [contractor] *owner* and the Secretary of Commerce as trustees of the capital reserve fund [and special reserve fund]. In the administration of such common stock trust[s], capital gains, stock dividends, and rights to purchase stock shall be considered principal; cash dividends, whenever earned, shall be considered income. [At the end of the contractor's recapture period, however, after satisfaction of the contractor's recapture obligations, an amount of the special reserve fund trust equal to the value of the capital gains made (whether realized or not), the stock dividends declared, and the rights to purchase stock issued to the special reserve fund trust during such recapture period, to the extent the special reserve fund trust contains this amount, shall be transferred (in cash or in stock) to the capital reserve fund trust.] For the purpose of determining the 50 per centum of the capital reserve fund [and the special reserve fund] the transfer of which to a common stock trust the Secretary of Commerce may approve, the market value of [each] such fund as of the date of such transfer shall be used. The common stock trust[s] authorized by this subdivision (3) shall at all times remain a part of the capital reserve fund [and the special reserve fund].

(C) If immediately before a deposit is made in a capital [or special] reserve fund, 50 per centum or more of the value of such fund is invested in common stock, the Secretary of Commerce is authorized to approve, upon application of the [contractor] *owner*, the transfer of not exceeding 50 per centum of such deposit to the common stock trustee upon the trusts authorized in this subdivision (3). When payments are made, or funds are withdrawn, from a capital reserve fund [or a special reserve fund], as authorized in this section, if 50 per centum or more of the value of such capital reserve fund [or a special reserve fund], as of the date of such payment or withdrawal, is invested in common stocks, such payment or withdrawal shall be made from the common stock trust in the proportion that the value of such common stock trust bears to the value of the entire capital reserve fund [or special reserve fund]. If, however, less than 50 per centum of the value of such capital [or special] reserve fund, as of the date of such payment or withdrawal, is invested in common stocks, the Secretary of Commerce is authorized, upon application by the [contractor] *owner*, to approve the allocation of the payment or withdrawal entirely to the portion of such capital [or special] reserve fund not invested in common stocks, or to approve the allocation of such payment or withdrawal between the common stock trust and the remainder of such capital [or special] reserve fund in any proportion, so long as the value of the common stock trust immediately after such withdrawal does not exceed 50 per centum of the value of such capital [or special] reserve fund, and if the [contractor] *owner* makes no such application or if the allocation requested in such application is not approved by the Secretary of Commerce, then such payment or withdrawal shall be allocated in the manner above provided for when the value of the common stock trust is 50 per centum or more of the value of the entire capital reserve fund [or special reserve fund].

(D) Trust indentures executed under the authority of this subdivision (3) may contain such other terms and conditions not inconsistent with this subdivision (3), as the Secretary of Commerce determines are desirable to protect the interests of the United States. The authority of the Secretary of Commerce to grant approvals, give directions, make determinations, and make regulations under this subdivision (3), and to act as trustee of the capital reserve fund [and special reserve fund] under this section may be delegated to the Maritime Administrator.

(*c*)[(e)] If, during any accounting year, the [contractor's] *owner's* general funds have become seriously depleted due to operating losses on [the subsidized] *his* vessels *operating in the United States foreign trade,* [and the special reserve fund has been exhausted,] the [Commission] *Secretary of Commerce,* may, in [its] *his* discretion, *permit* the [contractor] *owner* temporarily to withdraw from his capital reserve fund such excess therein on deposit over and above the amount necessary to pay the principal amount currently due or about to become due on the [contractor's] *owner's* mortgage obligation on [the subsidized] *his* vessels *operating in the United States foreign trade:* PROVIDED, HOWEVER, That the sum so withdrawn shall be repaid to the capital reserve fund as soon as the [contractor's] *owner's* financial condition shall permit.

(*d*)[(f)] [Unless otherwise provided in the operating-differential subsidy contract, upon] *Upon* the termination of any [such contract] *agreement described in subsection (a) of this section* the reserve fund[s] required under this Act shall be the property of the [contractor] *owner*, except for such amounts as may be due the United States.

(*e*)[(g)] With the approval of the [Commission] Secretary of Commerce the [contractor] *owner* may voluntarily increase the amount of [either or both] *the* reserve fund[s] by depositing in such fund [or funds] any or all of the earnings otherwise available for distribution to stockholders [, or may transfer funds from the special reserve funds to the capital reserve funds]. If a voluntary deposit of earnings approved by

the [Commission] *Secretary of Commerce* under the subsection after December 31, 1950, results in an overpayment of Federal taxes for any year, interest shall not be allowed on such overpayment for any period prior to the date of approval of the deposit by the [Commission] *Secretary of Commerce.*

(f) [(h)] The earnings of any [contractor receiving an operating-differential subsidy under authority of this Act,] *owner* which are deposited in the [contractor's] *owner's* reserve fund[s] as provided in this section [, except earnings withdrawn from the special reserve funds and paid into the contractor's general funds or distributed as dividends or bonuses as provided in paragraph 4 of subsection (c) of this section,] shall be exempt from all Federal taxes. Earnings withdrawn from such [special] reserve fund shall be taxable as if earned during the year of withdrawal from such fund *and the owner shall pay to the United States interest on the amount of the tax that would have been due in the year such earnings were deposited from the date of such deposit to the date of withdrawal at the rate per annum provided in the Internal Revenue Code of 1954 with respect to taxes not paid on or before the last day prescribed for payment.*

(g)(1) The term "United States foreign trade" in this section includes those areas of domestic trade in which a vessel built with construction-differential subsidy is permitted to operate under section 506 of this Act.

(2) The term "vessel" in this section means a vessel built in the continental United States including Alaska and Hawaii and documented under the laws of the United States.

[Sec. 803. It shall be unlawful for any contractor receiving an operating-differential subsidy under title VI or for any character under title VII of this Act to employ any person or concern performing or supplying stevedoring, ship-repair, ship-chandler, towboat, or kindred services to supply such services to the operator's subsidized or chartered vessels if such contractor, or any subsidiary company, holding company, affiliate company, or associate company of such contractor, or any officer, director, or employee of such contractor, or any member of the immediate family of any such contractor officer, director, or employee, or any member of the immediate family of any officer, director, or employee, or such subsidiary company, holding comapny, affiliate company, or associate company of such contractor, owns any pecuniary interest directly or indirectly in the person or concern supplying such services to the contractor's subsidized or chartered vessels or receives any payment or other thing of value directly or indirectly as a result of such employment or services, except that the Commission, by a vote of four members (except as provided in section 201(a)) may grant an exemption in writing from the provisions of this section, upon such terms and conditions and for such specific period of time as the Commission deems necessary or appropriate to carry out the policy of this Act, in any case where—

[(a) The Commission finds that the enforcement of such provisions is not necessary to safeguard the economical and fair application of subsidies paid the contractor under this Act, and that such exemption will promote economy or efficiency of service by the merchant marine; and

[(b) The person performing the services or supplying the facilities agrees to account for and pay over to the contractor any and all profits resulting from performing such services or supplying such facilities.]

Sec. 805.

[(c) In determining the rights and obligations of any contractor under a contract authorized by title VI or title VII of this Act, no salary for personal services in excess of $25,000 per annum paid to a director, officer, or employee by said contractor, its affiliates, subsidiary, or associates, shall be taken into account. The terms "director," "officer," or "employee" shall be construed in the broadest sense. The term "salary" shall include wages and allowances of compensation in any form for personal services which will result in a director, officer, or employee receiving total compensation for his personal services from such sources exceeding in amount or value $25,000 per annum.]

Sec. 1101. * * *

(c) The term "vessel" includes all types of passenger, cargo, and combination passenger-cargo carrying vessels, tankers, tugs, towboats, barges, and dredges documented under the laws of the United States, fishing vessels, [and] floating drydocks which have a capacity of thirty-five thousand or more lifting tons and a beam of one hundred and twenty-five feet or more between the wing walls, *and oceanographic research or instruction vessels,* owned by citizens of the United States;

* * * * *

Sec. 1103. * * *

(e) The aggregate unpaid principal amount of the mortgages and loans insured under this section and outstanding at any one time shall not exceed [$1,000,000,000] *$3,000,000,000.*

Sec. 1104.

(a) To be eligible for insurance under this title a mortgage, excepting as otherwise provided in section 1106 (46 U.S.C. 1276)—

* * * * *

(8) shall secure a loan made to aid in financing, including payment of loans previously made to finance, and reimbursement of the mortgagor for expenditures previously made, construction (including designing, inspecting, outfitting, and equipping) of vessels under title V of this Act, as amended, or the purchase by citizens of the United States of vessels for use on the Great Lakes pursuant to the Merchant Ship Sales Act of 1946, as amended, or the construction, reconstruction, or reconditioning (including designing, inspecting, outfitting and equipping), subsequent to the enactment of this title, of vessels owned by citizens of the United States which are designed principally for *research, or for* commercial use (a) in the coastwise or intracoastal trade; (b) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States; (c) in foreign trade; (d) in the fishing trade or industry; or (e) with respect to floating drydocks in the construction, reconstruction, reconditioning, or repair of vessels;

* * * * *

(b) To be eligible for insurance under this title a loan—

* * * * *

(2) shall be made to aid in financing, including payment of loans previously made to finance, and reimbursement of the borrower for expenditures previously made for construction (including designing, inspecting, outfitting and equipping) of vessels under title V of this Act, as amended, or for the construction, reconstruction or reconditioning (including designing, inspecting, outfitting and equipping) subsequent to the enactment of this title, of vessels owned by citizens of the United States which are designed principally for *research or for* commercial use (a) in the coastwise trade or intercoastal trade; (b) on the Great Lakes or on bays, sounds, rivers, harbors, or inland lakes of the United States; (c) in foreign trade; (d) in the fishing trade or industry; or (e) with respect to floating drydocks, in the construction, reconstruction, reconditioning, or repair of vessels;

* * * * *

(4) shall provide that no advance shall be made thereunder unless the sum of such advance and the principal amount of all other advances under insured loans then outstanding at the same time of said advance shall [be less than] *not exceed* 75 per centum of the actual cost of such vessel, such actual cost to be determined by the Secretary of Commerce and such determination to be conclusive for the purpose of determining the principal amount of the loan: *Provided, however, That in the case of a vessel, the size and speed of which are approved by the Secretary of Commerce, and which is eligible for mortgage aid for construction under section 509 of this Act and in respect of which the minimum down payment by the mortgagor required by that section would be 12½ percentum of the cost of such vessel, the advance and the principal amount of all other advances under insured loans outstanding at the time of said advance shall not exced 87½ percentum of such actual cost;*

* * * * *

Sec. 1214. The authority of the Secretary to provide insurance and reinsurance under this title shall expire *September 7, 1975* [20 years from the date of enactment of this title.]

Sec. 202 * * *

(b) No person shall hold office as a member of the Commission who, within three years prior to his appointment, shall have been employed by, or have had any pecuniary interest in, any carrier by water or substantial pecuniary interest in any other person who derives a substantial portion of his revenues from any business associated with ships or shipping. Each member shall devote his full time to the duties of his office. It shall be unlawful for any member, officer, or employee of the [Commission] *Federal Maritime Commission* to be in the employ of any other person, firm, or corporation, or to have any pecuniary interest in, or hold any official relationship with, any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the [Commission] *Federal Maritime Commission* may have business relations.

REORGANIZATION PLAN 7 OF 1961

Sec. 301. Conflict of interest. The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, as affected by the provisions of Reorganization Plan No. 21 of 1950 (46 U.S.C. 1111(b)) (prohibiting the members of the Federal Maritime Board and all officers and employees of that board or of the Maritime Administration from being in the employ of any other person, firm, or corporation, or having any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Board or the Maritime Administration may have business relations) shall hereafter be applicable to the Commissioners composing the Commission and all officers and employees of the Commission [and to the Maritime Administrator and all other officers and employees of the Maritime Administration].

REORGANIZATION PLAN 21 OF 1950

Sec. 303. Conflict of interest. The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, (46 U.S.C. 1111(b)) (prohibiting any member, officer, or employee of the United States Maritime Commission from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Commission may have business relations) shall hereafter be applicable to the members of the Federal Maritime Board and all officers and employees of the Federal Maritime Board [or of the Maritime Administration].

An act to amend the Act of April 29, 1941, to authorize the waiving of the requirement of performance and payment bonds in connection with certain Coast Guard contracts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of April 29, 1941, 55 Stat. 147 (40 U.S.C. 270e), is hereby amended to read as follows: "The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of the Treasury may waive the Act of August 24, 1935 (49 Stat. 793), with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the United States and with respect to contracts for the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of vessels, aircraft munitions, materiel, or supplies of any kind or nature for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of such contracts as to payment or title."

Sec. 2. The Secretary of Commerce may waive the Act of August 24, 1935 (49 Stat. 793–4), with respect to contracts for the construction, alteration, or repair, of vessels of any kind or nature, entered into pursuant to the Act of June 30, 1932 (47 Stat. 382, 417–8), as amended, the Merchant Marine Act, 1936, or the Merchant Ship Sales Act of 1946, regardless of the terms of such contracts as to payment or title.

SECTIONS OF THE BILL THAT DO NOT AMEND AN EXISTING STATUTE

Sec. 38. (a) The amendments made by this Act shall not affect any contract with the Secretary of Commerce or his delegates that is in effect on the date of enactment of this Act. At the request of the other party to any operating-differential subsidy contract, the Secretary of Commerce may amend such contract so as to be in accordance with all of the amendments made by this Act, but no amendment made by this Act shall be incorporated in such contract unless all such amendments are incorporated in such contract. Until such contract is amended or if such contract is not amended, it shall be administered in accordance with the provisions of the Merchant Marine Act, 1936, as they existed immediately prior to enactment of this Act; Provided that the Secretary of Commerce may, in order to facilitate the amendment of existing contracts, settle or compromise outstanding controversies under such contracts in such manner as he determines.

(b) If any operating-differential contract in existence on the date of enactment of this Act is amended as provided in subsection (a), the current recapture period shall be closed as of the date of the amendment and the recapture that is due and payable as of the effective date of such amendment shall be computed on the basis of such shortened period. The amendments shall provide that, with respect to seafaring personnel, in determining the rights and obligations of the contractor under such contract, the limitation of section 805(c) of the Merchant Marine Act, 1936, as it existed immediately before the enactment of this Act shall not apply. Any contractor under such contract may apply to the Secretary for permission to transfer funds on deposit in such contractor's special reserve fund to its capital reserve fund. If the Secretary determines that any part or all of the special reserve funds are necessary to replace vessels during the remaining term of such contract or are otherwise necessary to acquire modern vessels, he may approve such application. Any funds so transferred shall become part of the contractor's capital reserve fund. Any amounts not so transferred shall become part of the Contractor's general funds and that portion of such funds which are ordinary income or capital gains shall be taxable as if earned in the year such amendment becomes effective.

Sec. 39. (1) There is hereby established a commission to be known as the Commission on American Shipbuilding (hereinafter referred to as the "Commission"). The Commission shall be composed of seven members, appointed by the President. At least one member shall be from the United States shipbuilding industry. Members of the Commission shall be appointed for the life of the Commission. The President shall designate one of the members of the Commission as Chairman.

(2) Members of the Commission who are not full time employees of the United States Government shall each be entitled to receive the per diem equivalent of the rate authorized for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code when engaged in the actual performance of duties vested in the Commission, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

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

(5) The Commission shall have the power to appoint and fix the compensation of such personnel, as it deems advisable, subject (except as provided in paragraph (4) hereof) to the civil service laws and the Classification Act of 1949, as amended.

(6) The Commission may procure, in accordance with the provisions of title 5 of the United States Code, the temporary or intermittent services of experts or consultants; individuals so employed shall receive compensation at the rate to be fixed by the Commission, but not in excess of the per diem equivalent to the rate authorized for GS–18 of the General Schedule under section 5332 of title 5 of the United States Code, including travel time, and while away from their homes or regular places of business may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by title 5 of the United States Code for persons in the Government service employed intermittently.

(7) The Commission shall review the status of the American shipbuilding industry, its problems and its progress toward increasing its productivity and reducing production costs. The Commission shall determine whether the American shipbuilding industry can achieve a level of productivity by the fiscal year 1976 such that the construction-differential subsidy payable under title V of the Merchant Marine Act, 1936, will not exceed 35 percent of the United States construction cost. The Commission shall recommend a course of action which should be taken on the part of government and industry to improve the competitive situation of the United States shipbuilding industry in world shipbuilding markets and if the Commission shall determine that the construction-differential subsidy cannot be reduced to 35 percent of the United States cost it shall recommend alternatives to the ship construction program then in effect.

(8) The Commission shall not later than three years after the date of enactment of this Act or such earlier date as shall be required under section 502(b) of the Merchant Marine Act, 1936, submit a comprehensive report of its findings and recommendations to the President and to the Congress, and sixty days thereafter shall cease to exist.

(9) There are hereby authorized to be appropriated such amounts as may be necessary to permit the Commission to carry out its responsibilities under this Act.

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

Mr. MAGNUSON. I yield.

Mr. GRIFFIN. I think the Senator would agree with me, because we serve on that committee together, that the committee and Congress waited a long time to receive any kind of proposal from the previous administration. In fact, we never did receive one, as I recall.

Mr. MAGNUSON. That is what I was trying to say—that the delay in a merchant marine proposal is due not only to the previous administraion but also to the present administration. We even have held some hearings in anticipation of it. This is a proposal with a lot of meat in it, and I think we can get at it. It points up some of the problems in waiting for these proposals.

TAX REFORM ACT OF 1969—CONFERENCE REPORT

The Senate continued with the consideration of 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. 13270) to reform the income tax laws.

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

Mr. LONG. I yield.

Mr. FULBRIGHT Mr. President, I compliment the Senator from Louisiana, the chairman of the Committee on Finance, of which I have the honor to be a junior member, upon bringing back to the Senate a bill which I believe is excellent. In view of the great difficulties which have been encountered in this matter, not only recently but also earlier this year, on controversial matters, I think the Senator from Louisiana has done a first-rate job. I compliment him on his patience and ingenuity and whatever else it takes to get a bill through this body and a conference with the House.

While I am on this subject, I want to say that when I think about the difficulties we had earlier this year, in July and August, with regard to the extension of the surtax and tying it in with this bill, I believe the judgment of the majority leader in holding it up until we got the tax reform bill contributed greatly to the satisfactory result we now have before us; and I do not anticipate that there will be any serious question about it.

I am sure there never has been a tax bill with which everyone has been happy. Everyone is touched by it. There is a natural tendency for everyone to feel that someone else should pay his taxes, or more than he pays. I did not support a number of measures in this bill for various reasons, some a matter of judgment, some a matter of interest to one's constituents—all these matters go into making up the various judgments we

make; but, on the whole, while it has many compromises in it, I believe it is a first-rate bill.

I should like to ask the Senator from Louisiana about one minor matter. I sent it to the committee. It so happens that this matter does not affect my constituency. It is purely a labor of love, because my wife happened to play a part in the local thrift shop. Will the Senator allow me to ask one or two questions?

Mr. LONG. Yes.

Mr. FULBRIGHT. I ask the Senator whether the conference report contains an amendment by the Senate affecting the taxation of organizations, such as thrift shops, which sell merchandise received as gifts or contributions. As the Senator knows, all profits from the Thrift Shop in the District of Columbia inure to the benefit of Children's Hospital, St. John's Child Development Center, Columbia Hospital, the Hospital for Sick Children, and the Child Health Center—all of which are charitable institutions in the District of Columbia. This amendment is discussed on page 70 of the Finance Committee report on H.R. 13270.

Would the Senator comment upon the effect which this amendment may have upon tax liability of such organizations in prior years?

When I introduced this amendment at the request of the local charitable organization, I intended it to be effective not only for future years, but also to affect, I think, the last 4 years in which this liability was suggested. They never before believed that they were subject to it at all.

Am I correct in believing that this amendment corrects an unintended result of existing law, and to this extent has a retroactive effect?

Mr. LONG. The provision by its terms is not retroactive, but I think it is clear that Congress believes prior law should be interpreted as covering this situation. I would hope that the Treasury would apply our rule to the past as well as the future.

Mr. FULBRIGHT. I thank the Senator. This certainly was my intention in introducing it. Since this Thrift Shop is run entirely by voluntary services and these gifts are made by anybody, it certainly would be a great disservice, I think, to all those institutions if it were not interpreted as the Senator believes it was intended it should be; and I hope that the Treasury will follow that advice.

I appreciate the Senator's assurances, and I know that those who volunteer their services and make gifts to the Thrift Shop, as well as those who benefit by these contributions, will be grateful.

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

Mr. FULBRIGHT. I yield.

Mr. MAGNUSON. I am a director of the Goodwill Industries. They get various articles and put them together and make them workable, and then sell them for charitable purposes. Would it apply to that organization?

Mr. LONG. There is nothing in this bill that adversely affects the Goodwill Industries.

Mr. MAGNUSON. I mean that type of agency—such as the Salvation Army and Goodwill Industries.

Mr. FULBRIGHT. I think the distinction is this: If Children's Hospital itself engaged in this activity alone, it never would have arisen. The difficulty has been caused because this particular agency services four children's hospitals—and this has created in the mind of one of the employees of the Treasury what I consider an imagined difference which has caused him to make this adverse ruling. I do not think it was intended by Congress, as the Senator from Louisiana has said; and while that is a formal distinction, it is not a substantive one, in my view.

Mr. LONG. It does not apply to the situation suggested by the Senator from Washington.

Mr. FULBRIGHT. I congratulate the Senator from Louisiana and the other members of the conference. I think they have worked under unusual difficulties. They have reached a very equitable result, and I think the country will benefit greatly by it.

Mr. LONG. In behalf of myself and the other members of the conference, I thank the Senator from Arkansas for his gracious comments.

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

Mr. LONG. I yield.

Mr. HOLLAND. Mr. President, I am indeed happy to support the adoption of the conference report on the tax reform bill, which may now truthfully be referred to as a tax reform measure rather than a tax relief bill. I congratulate warmly all the conferees from both Houses, headed by the distinguished Senator from Louisiana (Mr. LONG) and the distinguished Representative from Arkansas (Mr. MILLS) on the very fine and completely necessary pruning job which they did on the bill as it passed the Senate after having been loaded down by many hurtful floor amendments.

In particular, I am happy to note that instead of heavily reducing revenue for the fiscal years 1970 and 1971, the most critical years as we fight inflation, as was done by the bill which passed the Senate, the conference bill actually increases revenue for both of those critical years. As reported from the conference, and as shown in the report by the staff of the Joint Committee on Internal Revenue Taxation, dated December 22, 1969, on revenue estimates relating to the House, Senate, and conference version of H.R. 13270, Tax Reform Act of 1969, the bill shows actual increases in revenue by $6.479 billion for 1970 and $293 million for 1971. In addition, the conference bill cuts off some reductions in revenue voted on the Senate floor which would have been large and hurtful in years following 1971.

Likewise, the conference bill reduces very greatly the loss that would have come from the so-called Gore amendment—which would have raised the personal exemption for 1970 from the existing level of $600 to $700 and for 1971 to $800—in the following way: The conference bill increases the personal exemption by $50 beginning July 1, 1970, which is further increased to $700 for 1972 and by an additional $50, to $750, for 1973. This action accomplished the needed reduction from the amounts included in the so-called Gore amendment, which I opposed, and the needed reduction from the so-called Percy amendment, which I also opposed. The conference committee is to be especially commended for their action in this important field. I am glad that we will have an increase in personal exemptions—the first since 1948, which I strongly supported—but I am particularly relieved that the increase is not so large or so immediate as to bring disaster to our fiscal situation.

So far as the 15-percent increase in the social security payments is involved, the conference committee is to be commended for deleting from the Senate action on this subject the amendments which were voted on the Senate floor by which the total amount of social security payments would have been sizably increased beyond 15 percent. I am glad that as a result of the action of the conference committee those many citizens who receive social security will receive an added 15 percent to their current payments after January 1, 1970, which increase is in an amount that can be justified without doing damage to the pool from which social security payments are made.

May I also express my appreciation to the distinguished Senator from Louisiana, the distinguished Senator from Utah, and our other conferees because they retained the two modest amendments which I offered during debate, one of importance to our citrus industry, not only in the State of Florida but also in Texas, Arizona, and California, and the other that prohibits levying on that part of a taxpayer's earnings, required by judgment of a court of competent jurisdiction, entered prior to the levy by the Internal Revenue Service, to contribute to the support of his minor children.

It is a pleasure indeed to be able to vote for this important measure, because of the very fine work that has been done by the conference committee in correcting most of the unsound actions that were taken on the floor of the Senate. The hard-working conferees are entitled to the grateful thanks of our entire Nation for a hard job splendidly performed.

I thank our conferees warmly.

Mr. MILLER. Mr. President, the Tax Reform Act of 1969 has been passed by the House of Representatives by a vote of 381 to 2.

As one of the conferees who signed the report, I believe that, on balance, this report should be agreed to by the Senate.

In a bill running some 550 pages in length, it is understandable that each of us would approve many items while, at the same time, be opposed to others. One has to balance the good with the bad and make a judgment on which weighs more favorably.

The two items on which I believe the Congress has fallen down the worst are: First, the increase in the personal exemption from $600 to $750—phased in over several years, with an effective in-

crease for 1970 of $25. The increase is to $650 effective July 1, which means a $25 increase for the year as a whole; and second, the 15-percent increase in social security benefits without also providing an automatic increase in cost of living to protect our social security recipients from the hardship of future inflation, if it occurs.

As I pointed out on the Senate floor during debate on the bill, increases in the personal exemption give wealthy, high tax bracket taxpayers the major tax benefits; while those in the low income tax bracket receive relatively small tax benefits. Thus, the $25 increase in the exemption for calendar year 1970 will give a person in the 15-percent tax bracket a tax benefit of $3.75 per exemption; whereas the person in a 70 percent tax bracket will receive a tax benefit of $17.50 per exemption. When the increase from $600 to $750 becomes effective in 1972, the low-income person in a 15-percent tax bracket would receive a tax benefit of $112.50 per exemption; whereas the person in a 70-percent tax bracket will receive a tax benefit of $525 per exemption.

This is regressive taxation, and at the time a majority of my colleagues voted for the so-called Gore amendment, I warned that they were, in effect, voting themselves a pay increase, because, on an average, Senators are in a 50-percent tax bracket. This means that under present law, with a $600 exemption, they receive a tax benefit of $300 per exemption; and with a $750 exemption, they would receive a $375 tax benefit.

For this reason, Mr. President, I wish to serve notice that I shall be trying with all my power to persuade the Congress to repeal the Gore amendment before 1972 and to have this obsolete, unfair personal exemption replaced with either a tax credit, which will give every child in this country, whether in a low-income family or a high-income family, equal recognition in the eyes of the tax law; or have a ceiling placed on the tax benefit which flows from the personal exemption. I might add that if this were done, we could save over $1 billion of revenue loss which will arise when the Gore amendment is fully implemented; and that revenue loss could well be used for higher priority items such as increases for education or for tax credits for college education expenses, and the like.

For years, those in control of the Congress have engaged in political gimmickry with our older Americans receiving social security benefits. First they run our Federal Government billions of dollars deeper into debt. This lays a foundation for inflation which shrinks the purchasing power of the dollar and puts social security recipients in a hardship condition. Then, usually in an election year, those in control of the Congress vote increases in social security benefits to "relieve" the hardship they, themselves, have created; and hope that our older Americans will respond favorably at the polls. Meanwhile, between the last social security benefit increase and the new one, these older people have had billions of dollars in purchasing power taken away from their social security checks.

The way to handle this situation is to stop making political footballs out of our older Americans and to provide in the law for an automatic increase in social security benefits—and Railroad Retirement Act benefits—to meet increases in the cost of living, so that if there is inflation, these people will be protected from it. This is what the Congress did for civil service retirees in 1962, and I have introduced legislation to do this for social security and Railroad Retirement Act beneficiaries in every Congress since that time. This proposal was unanimously adopted by the platform committee of the National Republican Party in Miami in August 1968, and was approved by the convention. In turn, President Nixon endorsed the proposal and requested Congress for a 10-percent increase in social security benefits plus the automatic cost of living increase provision. Instead, our Democratic friends, who control the Congress, insisted on a 15-percent increase—although 10 percent was all that was needed to offset inflation which has occurred since the last benefit increase—and no automatic cost of living increase provision. Apparently our older Americans must continue to look forward to being political footballs.

I wish to serve notice that I shall keep trying to have the automatic cost of living increase provision put into the social security and railroad retirement laws.

Apart from these two serious defects in the Tax Reform Act of 1969, as presently before us in the conference report, there are numerous improvements in the tax law. This bill contains the greatest tax reform ever written into a bill since our income tax laws were placed on the books. Numerous tax loopholes and tax minimization or tax avoidance provisions in the law have either been eliminated or considerably reduced, thus providing a much more fair overall base against which to apply the income tax—both individual and corporation. Some of these reform provisions may well have gone too far, and, if they have, the average taxpayer, who is also the average consumer, will find that consumer costs will increase. But overall, we now have the fairest base for the income tax in history.

This is a most important consideration, because if Congress has gone too far in revenue losing, tax relief action, we may be faced with a need to resort to another surcharge in 1971 or 1972 to prevent budget deficits and put a stop to inflation and high interest rates. If this should happen, the surcharge would be applied against a much fairer tax base than has been the case with the 10-percent surcharge. Indeed, the 5-percent surcharge which continues for the next 6 months will apply to a fairer tax base than has heretofore been the case.

My order of priorities this year has been to have a modest tax reduction for those in the low- and middle-income groups and to have sufficient revenue pickup from the tax reform bill to enable us to do more for education, health, hunger and malnutrition, and other pressing national needs. Instead, those in control of the Congress have placed first priority on—not modest tax relief but, in my opinion, excessive tax relief, and second priority for expanded Federal programs for education, health, hunger and malnutrition, and other pressing national needs.

Those who voted for the Gore amendment, for example, should fully realize and be held accountable for this ordering of priorities. And it will not do for them to say that we can do both without inflation and high interest rates, because this is just repeating the old "guns and butter" economic philosophy of the previous administration which brought on the inflation and high interest rates our people now suffer from.

Finally, I think the American people should appreciate the terrible time limits placed upon the Senate Finance Committee, the conference committee, and the staffs of the Finance Committee, the Joint Committee on Internal Revenue Taxation, and the staff of tax experts from the Treasury Department. Anyone familiar with the deeply complex tax field knows that all of these people should have had at least twice as much time as they did to get the job done. In this respect, there will undoubtedly appear some defects in the bill which would not have occurred had there been more time for analysis and reflection. Under the circumstances, however, an almost impossible task has been accomplished.

I am gratified that the conference accepted my minimum income tax approach, which my colleagues in the Senate so strongly supported. It is relatively simple and will go a long way in making sure that high income individuals will pay substantial Federal tax to support the operations of their Federal Government. As we know, interest from tax-exempt bonds issued by States, municipalities, and school districts is not included in the list of tax preferences for purposes of the minimum income tax. This resulted from the overwhelming opposition by the Governors of the 50 States, the mayors, and county commissioners, and other affected organizations. It was pointed out that to tax these securities would force these governments to increase the interest yield which, in turn, would force an increase in property taxes needed to pay holders of the securities. Moreover, by making some changes in the Federal estate tax law later on, I believe we can probably make up for this deficiency in the income tax law. Aside from this, however, tax preferences will not enable people to escape paying tax.

Bearing these observations in mind, I hope my colleagues will join with me in voting for the conference report.

Mr. MOSS. Mr. President, I intend to vote for the conference report and I shall do so gladly just as I voted for the bill that the Finance Committee brought before the Senate when we passed it and sent it to conference.

I wish to commend the chairman of the Finance Committee and its members, especially the conferees who sat in the conference with the House in a most difficult situation.

Besides the two very complex bills to be brought together, each about as thick as a small telephone book, the committee was also laboring under pressure of time and the threat of a veto which had been issued. As a matter of fact, some Members of this body have indicated

that they would support a veto. So that the conferees were under great pressure. For them to labor as well and as long and diligently as they did, and then to come out with a conference report of this kind, is a great accomplishment and I compliment them.

Mr. President, I think that the bill which has been achieved is a great step forward.

It has been said, and I repeat, that this is of course the greatest overhaul we have ever made of the Federal income tax structure since it was instituted in 1913. It is a monumental overhaul. Those who have chosen to say that this is a do-nothing Congress are answered eloquently in just this bill alone. Had this Congress accomplished nothing but the enactment of this bill, the 91st Congress would have gained a reputation for being an effective Congress—certainly not a do-nothing Congress in that sense of the word.

I invite the attention of the Senate to the wisdom of the leadership of the majority leader in insisting, earlier in the session, that we proceed to consider tax reform this session, when the surtax was sent up to us with the President requesting the extension. He asked, and many supported him, that we should proceed with the surtax, and put off until next year, perhaps long thereafter, study of the question of tax reform; but the majority leader said that we will proceed with tax reform at the same time we proceed with the surtax extension. That was done.

What we have done has been to extend the surtax. The second part of it is contained in the conference report. We have achieved a good measure of tax reform. I suppose every Senator would write the bill a little bit differently if he had the chance to do so. What we have had to do is operate in a legislative situation, with many sources of input, many objections, and many pressures; and of course we are a bicameral legislature, and thus we deal with the other body and with its points of view. But out of all this has come a bill that does give tax relief to those who are most in need of it. We have plugged up some of the loopholes and done away with some of the inequities. The bill will bring in additional revenue to the Treasury Department, especially in the short term when it is so important, as we have been told, in trying to control inflation.

Finally, it seems to me that two of the great changes made by amendment on the floor of the Senate have remained in the bill and they are of the greatest importance.

One is the 15-percent increase in social security benefits effective the first day of January 1970. In view of the continued inflation we are having, this is certainly overdue. We did not have to wait until April 1. We did not have to scale it down to 10 percent. We gave the relief in this bill, and that was put in by amendment here on the Senate floor.

The other thing is the amendment of the Senator from Tennessee (Mr. GORE). It has been modified somewhat by the conference report, but here is a measure of tax relief that people will understand and will feel directly and immediately.

I compliment the Senator from Tennessee most highly for having stayed with his amendment, the Senate for adopting it, and the conference for keeping it in large part in the bill. It makes it a much better bill.

I think that was a great overhauling of the tax structure.

I agree with other Senators that much still has to be done. Certainly we will have an opportunity in future sessions to look at particular parts of the bill, but this has been a great effort made to understand, analyze, and improve the overall tax structure. I hope we can continue to improve it, to make it more equitable, to bring in the funds needed for this great government, and to accomplish with that a more balanced and equitable financial picture for all our citizens.

So I gladly support the conference report. I compliment those who have brought it up to this stage.

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

Mr. MOSS. I yield.

Mr. PASTORE. I wish to associate myself with every single word that has just been uttered by our distinguished colleague from Utah, and to emphasize at this juncture that I think the efforts of the Policy Committee, under the able leadership of our distinguished majority leader, did in fact pay off. He insisted at that time that we would not consider a further extension of the surtax unless that extension was coupled with and accompanied by tax reform; that if we allowed that occasion to pass, we might never reach the day when we would reform our tax structure.

I am very glad to join Senator Moss in the observations he made in congratulating the conferees for the splendid job they did, under tiring and trying circumstances, and also to congratulate the majority leader, who took the very, very affirmative position that, if the American taxpayer was to carry further the burden of the surtax, he should also have a reformation of the tax structure.

I commend the Senator for the statement he has made.

Mr. MOSS. I thank the Senator.

Mr. President, I yield the floor.

Mr. BIBLE. Mr. President, first I endorse what the distinguished Senators from Utah and Rhode Island have said about the conference report that is before us this afternoon. I in particular want to compliment the chairman of the Finance Committee and the other members of the committee, on both sides of the aisle, for the work which they have done in bringing forward today the bill which is before us for our final action.

As chairman of the Parks and Recreation Subcommittee of the Committee on Interior and Insular Affairs, I have some familiarity with the establishment and creation of park and recreation areas, lakeshores, and seashores throughout the United States.

I have discussed this matter preliminarily with the distinguished chairman of the Finance Committee. In the final version of the tax bill as a result of the conference, which now, of course, has been acted upon favorably by the House of Representatives and is now before us for action, there is section 4945(e), which deals with the taxation of foundations attempting to influence legislation.

The act establishing the National Park Foundation permits the donation of land, money, or other assets to the Foundation to obtain park properties which are needed for park purposes and donating or selling them to the National Park Service prior to authorization by the Congress in order to prevent escalating land costs.

Concern has been expressed that acquisition of lands or facilities by any governmental agency for the establishment, enlarging, or improving of public parks or recreational facilities and acquiring, preserving, or restoring historic properties through an organization such as the National Park Foundation could constitute lobbying.

This, in my judgment, would be the wrong interpretation. If it were so, it would adversely affect our parks and recreation programs in many areas of the country. Just recently, I may say to my distinguished seat mate in the front row, the Senator from Florida (Mr. HOLLAND), we used this act to acquire lands in the Everglades to round out some holdings. We have not acquired all of them yet. We have successfully used this foundation in other similar situations.

So the question I would like to ask the distinguished chairman of the Finance Committee is as follows: Is there anything in the National Park Foundation operation which would be frustrated by the bill coming out of conference, which is before us today, which would adversely affect our parks and our recreation programs?

Mr. LONG. Mr. President, this matter was discussed by the the conferees and they felt the bill would not affect the present practice. The bill restricts activity relating to legislation, and it has no effect on executive departments engaged in the purchasing of park lands. The fact that the department must get a legislative authorization and appropriation does not alter the fact that the actual purchase is purely an executive, not a legislative, action.

Mr. BIBLE. Mr. President, I am pleased to make that legislative record. I think it conforms with the practice. I could not believe there would be anything in this foundation section of the tax bill that would be adversely construed with respect to acquiring park and recreation areas throughout the Nation. I appreciate not only the attention which the conferees paid to this matter, but the answer which the Senator from Louisiana has given.

Mr. TYDINGS. Mr. President, I would like to take this opportunity to speak for a few minutes on the Tax Reform Act of 1969.

First of all, I think it is important for the American people to know, as the members of this body know, that there would have been no Tax Reform of 1969 if it had not been for the distinguished majority leader of the Senate (Mr. MANSFIELD), who refused to go along with pressure from innumerable sources, including the administration, earlier this year, when they wished to repeal the investment credit tax without any ta

reform for the American taxpayer as a whole.

When Senator MANSFIELD made the decision to hold solid for a tax reform for all of the citizens of the United States, he made this final tax reform proposal possible.

I think that the work of the distinguished chairman of the Senate Finance Committee, Senator RUSSELL LONG, who held long hours of hearings from August through October, when the bill was reported, is a great credit to him and to the Finance Committee.

I think the distinguished chairman of the House Ways and Means Committee, Mr. WILBUR MILLS, who provided the leadership on the other side, will long be remembered and appreciated.

I certainly concur in the words of the Senator from Utah (Mr. Moss), who said that if the first session of the 91st Congress had done nothing else but pass appropriations bills and pass this Tax Reform Act, the American people would have had a substantial piece of legislation accomplished in this session.

There has been some criticism on some fronts that this legislation is inflationary. I challenge the editorial of the New York Times and other statements. They seem to forget that the President of the United States campaigned on a platform of repeal of the surtax; that it has always been his position to repeal the surtax; that we are talking about a dollar and cents position of the Federal Treasury, based on the President's own statements, requests and campaign pledges.

If the President, in his wisdom, decides that we need a surtax, certainly the average American taxpayer is far better off if the surtax is based on a fair, across-the-board sharing and apportionment of taxes in this country, which will be achieved under this conference report, rather than under a hodgepodge of deductions and exclusions and special situations which the present tax law holds.

I pay tribute, Mr. President, to the distinguished Senator from Tennessee. All the rhetoric of the minority leader and his speech writers to the contrary notwithstanding, there is but one principal reason why the average American taxpayer will benefit so greatly from this tax reform bill, and that is the prodigious effort made by the Senator from Tennessee to do away with the administration-backed proposal, debated on this floor—which would have allocated more than 25 percent of all the tax relief in the bill to those making more than $20,000 a year—and to reallocate the benefits of the tax reduction where they should go; namely, to the middle-income and average American taxpayers who pull the tax load in this Nation.

It was Senator GORE's amendment which went to conference, not the substitute amendment turned back by a vote of some 72 to 12 on this floor. It was Senator GORE's amendment which provided the basis of relief for the average American taxpayer.

In behalf of the average so-called silent American taxpayer in Maryland, Senator GORE, we thank you. We think this bill is a great step forward. I think that the electorate of America, if for no other reason, should be proud of this session of the 91st Congress because of this tax reform bill.

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

Mr. TYDINGS. I am delighted to yield to the Senator from New Mexico.

Mr. MONTOYA. I join the Senator from Maryland and the Senator from Utah in what they have said concerning the great part played by the Senator from Tennessee, and the great effort put forth and the great leadership supplied by the Senator from Louisiana. I am particularly proud of the fact that I joined the Senator from Tennessee in offering his amendment, and I am also very happy because of the fact that a substantial part of the amendment prevailed in the conference.

I wish to compliment also the members of the Committee on Finance for the arduous labor they exerted in bringing forth a piece of meaningful legislation which now culminates in meaningful tax reform. This was a most difficult task, amidst an atmosphere of misconception by many people. Many times the various members of the Committee espoused sectional or geographical concerns, only to have their motives impugned. Others manifested concern with other items of personal significance or sympathy, such as the foundations, the arts, the farmers, or the students. We here in the Senate exercised our option to act independently of the other body, as we should have. We had the power to amend, a privilege that did not exist for the House of Representatives, because of the long-enduring custom of presenting general tax legislation in the House of Representatives under a closed rule, which prohibits the offering of amendments from the floor. That accounts for the great variance between the actions of the respected House of Congress which was the case with respect to these tax reform measures. But that was the parliamentary process working in its truest form.

The conference ironed out the disparities and variances and, in the final stage of the process, we are presented with a piece of legislation which will stand as a hallmark of this Congress. I applaud these efforts and these results. All Americans should realize that we have made a great start, and I wish to say, by way of further emphasis, that the Senator from Tennessee, as has been said by the Senator from Maryland, faced the ammunition here in this Chamber, and he imposed a determination on this body by representing to us that the American people wanted some tax reform in the way of additional exemptions. He articulated his position, and he won out, and most of the Senate went with him. He deserves the great credit that is due him for having played a substantial part in the benefits that will be derived by the taxpayers of America out of this great piece of legislation.

As for the chairman of the Committee on Finance, he followed the suggestions made by the Senate, upon recommendation of the majority leader, that he call his committee to order and that he work day and night to try to bring about legislation before a certain date. He did work hard, and so did the members of his committee; and from his committee came a significant piece of legislation. But that did not foreclose us from working our will as individual Senators, and then obtaining a collective measure in this body.

That is what this process is all about, and I congratulate the distinguished chairman of the Committee on Finance and all his colleagues on that committee for carrying it out so well.

Mr. STENNIS. Mr. President, I shall not detain the Senate but a few minutes, I wish to express my very profound appreciation to the members of the Committee on Finance of the Senate, and, of course, the members of the House Ways and Means Committee as well; but I personally know about what the members of the Senate Finance Committee did. I think they have rendered a truly great service to our country, and one that was long overdue but one that will render benefits for a long, long time.

I wish to point out also, at least for the RECORD, the tremendous amount of work the committee members did on this bill, day after day, night after night, week after week, which culminated in the conference committee work, which I understand sometimes ran until 3 or 4 o'clock in the morning. Such work passes unnoticed by the press and by most of the people. There is but one thing that would cause members to engage in such toil; and that is true and genuine dedication to duty on a hard, dry subject that is praiseless in nature. No bands will be marching and singing songs dedicated to those gentlemen; but they have rendered a great service to their country. Everyone is indebted to them and appreciates it very much.

This is a subject I have never gotten into. I do not understand the technical phases of taxation. But I do realize what it means for the economy. I have not voted for many of the tax reductions that have been made over the years. One reason is that they have passed up a group of people that I have thought is entitled to the most relief in the form of increased personal exemptions. When I first ran for the Senate, I promised that I would try to raise the $600 exemption. I told the people that I would seek to have the exemption increased. I meant it. I tried to do it, I voted for it many times, but always it was lost in conference; the tax relief went off in another direction to another group.

But now we have really gotten down to the fellow who counts, those who feel it, and will appreciate it, too.

I commend the distinguished Senator from Tennessee (Mr. GORE). I do not know what has been stated earlier, but he made the difference for success in this personal exemption increase. He opened up the fight; he opened the door with his persistence and his skill in debate. I know something about his skill in debate, because I have had some of it displayed against me. So I appreciate the skillful way he handled his subject and fought for the increase in personal exemptions to the end, causing it to survive the conference.

The committee had much good help in bringing back the report from conference. I am proud of our friend from Louisiana (Mr. LONG), who reached a pinnacle in the way he handled the bill in the Senate. I have been concerned about the bill. His thoroughness, his energy, his knowledge, and his persistence have paid off.

I have the privilege to sit across the aisle from the distinguished Senator from Nebraska (Mr. CURTIS). I know that he has worked hard on the bill, as has, also, the ranking Republican member of the committee, the Senator from Delaware (Mr. WILLIAMS), and also my special friend from Utah (Mr. BENNETT). I have spoken often with the Senator from Georgia (Mr. TALMADGE) about the bill and order of his work and contribution. I have personal knowledge of what all of them have done. I mention them because of my personal contact with them. We are grateful to them and to all other members of the committee.

As I have said, I feel that the Senator from Tennessee (Mr. GORE) made the difference on the bill so far as personal exemption increases are concerned. He fought on behalf of a group of people who have long been overlooked.

Some of these reforms will make a new start and an approach nearer to justice for that great body of people in our society who are the backbone of support for our churches, schools, and communities.

As one Member, and as a citizen, I am most appreciative.

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

Mr. STENNIS. I am glad to yield.

Mr. FULBRIGHT. I wish to join the Senator from Mississippi. I said a few words a moment ago, but I wish to join him especially in his commendation of the Senator from Tennessee (Mr. GORE), who carried the greatest burden in the matter of increasing exemptions.

I also wish to pay particular tribute to the members of the staff. Mr. Woodworth, of the joint committee, and his associate, Mr. Vail, of the committee staff, really bore an even greater physical burden in the amount of work they did. The committee could not have functioned at all without their extraordinary knowledge of the substantive matter, because there is no bill that I have ever been associated with that is more complex and more difficult for Senators who have not had special training in this area to grasp than a tax bill. Therefore, the staff is all the more important.

I did not want to let this opportunity pass without paying tribute to Mr. Woodworth and to his very good assistants, including Mr. Vail. They have done a great job in helping the chairman and the other members of the committee.

Mr. STENNIS. Mr. President, I join in the tributes paid to the members of the staff. So many of our committees have received great assistance from the staff members. I have said that the Senate moves on the wheels, as it were, supplied by the assistance that the staff members have given us.

Mr. FULBRIGHT. If it moves in the right direction, it does.

Mr. HARRIS. Mr. President, I join in the comments that have been made here. I particularly want, as a member of the Finance Committee, to commend the distinguished chairman, the Senator from Louisiana.

I told him the other day, while commiserating with him after 2 or 3 days of conference, what the senior Senator from Minnesota (Mr. MCCARTHY) told me when he and I were talking about how long we had been involved in the bill this year. Senator MCCARTHY said this experience reminded him of what Tommy Gibbons had said after going 15 rounds with Jack Dempsey. He said "I never got so tired of looking at one man in my life."

I think that is how the Senator from Louisiana must have felt after going through the lengthy hearings, the executive sessions in which we had the markup of the bill, the days of debate on the floor, and then finally the conference.

I think that while he may have been tired from time to time, and not particularly happy about the action on the Senate floor, as many of us were unhappy from time to time, the Senator can feel very proud of himself and of this product that is before the Senate today.

I think it is a major accomplishment. It obviously could not have occurred except for the leadership and the hard work and persistence of the distinguished Senator from Louisiana. As a member of the Committee on Finance, I am very pleased to have this opportunity to honor his leadership.

Also, I wish to point out that I certainly agree with the distinguished Senator from Rhode Island (Mr. PASTORE) and others in saying that this would not have been possible if it had not been for the actions taken by the distinguished majority leader, the Senator from Montana (Mr. MANSFIELD), and the position that he and others of us took in the Senate earlier this year. We believed that we could not ask the people of this country to continue to pay the surtax or any part of it over another 6 months or a year, unless we could at the same time assure them that they would have some real tax reform and substantial tax reductions during this session of the Congress.

Mr. President, without the assistance of the majority leader, I do not believe we would have ever accomplished this goal. I doubt that anyone disagrees with that statement.

I honor the distinguished majority leader for the position which he has taken on this issue throughout this session. He is certainly entitled to the gratitude of the Senate and of the country.

Mr. President, a great many people ought to be pleased with the results we have here today. However, I want to single out, as others have, the distinguished Senator from Tennessee (Mr. GORE).

I recall that when he first began to talk about raising the personal exemption, there was not very much support in the Finance Committee for the idea. And there was not very much hope that it could be done.

I was one of those who was doubtful. However, he kept on with his argument. He kept on refining the idea until I, like the majority of the Senate, came to believe—as obviously a majority of the people in the country believe—that the Gore amendment is the best way by which we can give so much needed tax relief to the American people.

The Senator from Tennessee is honored in the Senate and all around the country for bringing that increase in personal exemptions to fruition.

There is a great deal about the bill that I believe will be a credit to us all. I am pleased that it includes a 15-percent increase in Social Security benefits without an increase in the rates. I think that meets a great need.

I am pleased that we have given so much needed tax relief and tax reductions to the overburdened lower and middle income taxpayers.

I know that there are those who believe that the kind of determination of priorities that is contained in the bill is unwise at this time. I am not one of those.

I am one of those who feel that a great deal must be done on the whole broad front of social issues. But I do not believe we will be able to do what ought to be done on those issues unless the lower and middle income taxpayers feel they are being more fairly treated by the tax system of our country. They have not felt that way in the past, and they have been right in not feeling that way.

I believe that we will have a much better chance in getting the lower and middle income taxpayers to help do these things that must be done in this respect by reason of the fact that the tax laws of this country, which were more regressive than they should have been, are now more progressive than they were.

I believe that is a major accomplishment and one which is a condition precedent to our moving on so many of these other fronts that need our attention, as I have said before in the Senate and elsewhere.

I am pleased that we will have tax reform and the most important tax reform, I think, that we have had in the last 2 years. I am not pleased with every provision in the bill, and if I had my way I would make certain changes. But all in all, the tax system is now more equitable.

It means that the people who, up to now, have not been paying their fair share will be paying their fair share or at least will come a lot closer to it than they have in the past.

As a member of the Finance Committee, I have watched this matter very closely this year as a participant in the deliberations of the committee, in the markup session, on the floor, and in the conference committee, and I point out that no Member of the Senate has had more consistent position with regard to real tax reform or has been more determined to see that goal achieved than has the distinguished Senator from Tennessee (Mr. GORE).

Mr. President, I am again pleased to honor the Senator from Tennessee in that respect and to honor all others who have helped to make the bill a reality.

Mr. WILLIAMS of Delaware. Mr. President, there are a great many of the reform features in the bill with which

many of us agree. First I join my colleagues in paying tribute to the conferees on the excellent job they have done in bringing back to the Senate a much better bill than that which left the Senate.

In fact, as I sat here for the past several minutes and listened to my colleagues compliment the conference committee on the fact that they have deleted many of the Senate amendments a question arose in my mind as to how sincere the Senate was when it adopted those amendments in the first place. I have not heard anybody defending even one of the Senate amendments that were deleted in conference. I congratulate my colleagues on joining the rest of us in recognizing that many of those Senate amendments were merely approved for the day and were never intended to become law.

Nevertheless, the conferees do deserve a great deal of credit. I regretted, as I stated at the time, that I could not conscientiously serve as a conferee because I had disagreed with the Senate revenue reductions amendments.

I also wish to join in paying my respects to the majority leader, the Senator from Oklahoma, and many others who worked toward getting major tax reform. As one who for 20 years has been trying to get major tax reform, particularly a reduction in the depletion allowance, I thank them for their cooperation in helping us achieve that goal. Today we are much closer to getting it. I do not think this is a time when we should argue as to who gets the credit for this reform or reduction in depletion allowance. I am perfectly willing for them to call it the Harris amendment if they wish; the point is we have achieved a reduction in the depletion allowance. The important point is that it is becoming law, and I am willing that the Senator from Oklahoma get the credit.

I join them in stating that this reduction is a long overdue recognition of the inequities in our tax laws.

By the same token, I congratulate my colleagues on the fact that they now recognize that when Congress, about a year and a half ago under President Johnson, reinstated the investment tax credit that it was a major loophole. As one of the two Members of the Senate who voted against it at that time I am glad that they belatedly recognize it as a major loophole and one that needs to be corrected in this bill.

Nevertheless, while there is much good in this bill, one point we cannot overlook is that we are projecting down the road a $9 billion tax cut; and the question in our minds is, can we or can we not afford to reduce taxes when we not only have an unbalanced budget but also are confronted with the most serious threat of inflation in our history?

I am sure that there are many parts of this bill which each Member would like to support or in instances to change this item or that item, but that is not so important. No one gets a perfect bill. We realize that as we move into the legislative process we all have to give and take.

As I have said, generally speaking this bill does go far toward closing many of the major loopholes in our tax structure; to that extent I would like to support the bill. I do want to point out, however, a couple of points on which I wish we could have gone a little further. It has been mentioned that the tax reduction in this bill benefits low-income groups, and I concur in the statement that that is where we need relief. But one point has not been mentioned.

The bill does help the low-income groups, the lower-income taxpayers, but it does not help the middle-income taxpayers. When you jump beyond the middle-income taxpayers, however, to those who have earned incomes in excess of $50,000, as their incomes advance they get a substantial reduction under this bill. For example, a man making $100,000 or $200,000 a year gets a 30-percent reduction under this bill. The top rate on earned income is reduced from 70 percent to 50 percent. If he is making $52,000 or less he gets a tax increase when we take into consideration the other features of the bill such as an increase in capital gains tax from 25 percent to 35 percent. But as his income goes beyond that he gets a reduction.

When we are talking about helping the low-income groups I do not quite see how we can say that putting a 50-percent ceiling on earned income of a man making $200,000, $300,000, or $400,000 a year is tax reform. I wonder why my colleagues who are boasting of what they are doing for the low-income group have not mentioned that? When they speak of helping the poverty class I think they should recognize that some of the so-called poverty group are individuals with $200,000 incomes who are getting tax reductions under this bill. I would assume that those who are supporting this bill are in favor of this feature because I have not heard anyone mention any criticism of it.

I do not think those who are in that high-income bracket are entitled to a tax reduction until the people in the middle-income group can get it, and we just do not have the necessary funds to justify an across-the-board tax increase.

Yes, this bill contains a special 50-percent limitation on earned income. As I said before, it has a mathematical effect of approximately a 30-percent tax reduction for those in the high income brackets. The people in the middle-income brackets will actually pay a little more tax under this bill.

Another point I wish the Senate had corrected is a major loophole which was called to the attention of the Senate several months ago wherein Members of the Senate or any other public officials can claim tax deductions for their files or papers when donated to some charitable organization. After they leave office, or even before, they can donate their papers or cartoons in their offices to a university or other tax-exempt library after having them appraised and then get a tax reduction for them as though they had made a donation to a church. This is a glaring loophole to which our attention was called several months ago. It was referred to in a Wall Street Journal article as a loophole primarily for public officials, although it did also apply to writers, who could donate their notes and receive a tax credit.

Another phase of this loophole is that Members of Congress and other public officials may be sent the copies of a new book. They can then donate these books to a school or university and get a tax credit for the value of the books for which they have paid nothing. That is wrong.

As this bill was passed by the Senate it closed that loophole effective January 1, 1969. I regret to say that the date was changed in conference. The date was moved forward to July 25 of this year. I do not see why it was not left as it was. We have many other retroactive features in this bill. I do not know why the conferees did not keep it effective for the full year. To my knowledge, we only had one witness testify on it before our committee, the former Secretary of HEW, who expressed the hope that the effective date would be delayed until he could get his papers turned over to a university, and he said many others who left Government service this year were in the same category. At the time I offered the amendment I did not think we should make any exceptions, and I regret that the date was changed. Perhaps there was the reason, but I do not understand it. Nevertheless in the conference report it was made effective from July 25 of this year on, but it is not effective for those who went out of office last year or the first part of this year and have turned their papers over to libraries and universities. I understand that as high as $20 million could be involved in this, and at a 50 percent top rate that would be $10 million in lost revenue. It seems to me that this is a loophole. When we are talking about closing loopholes this was certainly a good place to start. This is not an instance in which tax relief is needed. But I do thank the conferees for accepting the amendment even though it only has the effective date of July 25.

So far as the tax reform features of this bill are concerned, while there may be areas in which I could suggest we go further. I think the conferees have done an excellent job in bringing back a bill which corrects many of the inequities in our existing tax structure, and on that point I would have liked to support the bill. Nevertheless I regret that the Congress has built into this bill the projected $9 billion tax reduction which will be triggered into effect over the years, and in the face of the present inflationary threat I do not think we can afford it.

I took the same position in the committee in connection with the rate reductions of the House bill. I agree that the amendment of the Senator from Tennessee as it is phased out has no more immediate impact than did the proposed rate reduction. I am not debating that. I said in committee that I questioned whether or not we could afford a tax reduction at this time, when we are operating this Government at a sizable deficit.

One point which has been overlooked is that even without any reduction in rates or increase in exemptions this bill already provided for a $9 billion tax reduction when we reduced the surtax from 10 to 5 percent for a half year or 2½ percent for the full year. But the supporters of this bill treat that reduction as though it were an increase in revenue by counting the $3 billion which will be derived from the lower surtax rates as though it were increased revenue.

I have compiled a tabulation for the last 5 years, beginning with 1965 through 1969. Members may be amazed at the size of the deficit we have generated in just these 5 years. If the Members will take this book, the budget, and check it they will find that on an administrative basis we have operated our Government for the past 5 years at a deficit of $53.504 billion.

In addition to that we have during this same 5-year period accelerated one full year's corporate tax payments by advancing payments, which means that during this 5-year period we collected one extra year's corporation taxes. When one takes into consideration the accelerated corporate taxes in the amount of $9.1 billion and then add the $2 billion profit by melting down our coins, another $1.2 billion gained from accelerated payments of excise and withholding taxes, and an additional $9.8 billion derived from the sale of participation certificates we have a total of $22.1 billion.

When that is added to the admitted deficit, which in the last 5 years was $53 billion, we have a total deficit of $75 billion. We have increased our national debt to finance that debt. I think it is time that we should ask ourselves, when are we in Congress going to face up to the inflationary problems of this country?

Inflation is our number one danger. It is eroding the purchasing power of social security benefits, the life savings, and the pensions of all Americans. I agree with the committee report that the impact in the next calendar year has been minimized substantially on that point. I congratulate the committee; however, one cannot get away from the fact that as far as the investing public is concerned, those who are afraid of inflation, they are going to look down the road and ask themselves, "Does this Congress really mean it when it says it is going to tighten up on expenditures, balance the budget, and combat inflation?"

As I stated earlier, this bill when fully effective reduces taxes for individuals by around $20 billion. Reducing the surtax from 10 to 2½ percent for the full year in 1970 equals a $9 billion reduction. Next year presumably the surtax will have expired, and that means another reduction of $3 billion. Then the full implementation of the increased exemptions and low-income allowances will total another $8 or $9 billion reduction in 1973. Pouring these additional funds in the spending stream at this time is highly inflationary.

The question has been asked many times, "Why was the surtax which was put on by President Johnson not more effective?" The answer is simple—it was put on too late. The Senator from New York and I recommend as far back as 1967 that the economy was getting overheated and that the administration should raise taxes to finance the cost of the war. We were in the midst of a war; yet the Johnson administration made no effort to finance that war, and we were not even recognizing it as a war. In August 1967 the Senator from New York and I suggested that the Johnson administration should impose a tax to reduce the staggering deficit. Nothing was forthcoming.

In January 1967 President Johnson had recommended a 6 percent surcharge. As a member of the minority party I endorsed that proposal as a step in the right direction. Then, much to the surprise of those who were concerned about inflation, two months later, in early March, the President reversed himself and asked for a tax reduction. He asked for the reinstatement of the investment tax credit which represented a $3 billion tax reduction. Congress stampeded that through and poured that extra money into the economy at a time when we should have been raising taxes to reduce the deficit and cool an overheated economy.

It was not until several months later that the administration recognized that we were confronted with a serious threat of inflation and decided to act. Finally the President agreed to support a bill which at that time was requesting a 10-percent surcharge accompanied by a 6-percent mandatory reduction in expenditures. The Senator from Florida and I sponsored the administration's bill, but President Johnson only accepted the expenditure controls after both Secretary Fowler and Mr. Martin of the Federal Reserve Board had warned that the American dollar was on the verge of forced devaluation unless prompt action were taken.

The bill proposing this 10-percent surcharge and a $6 billion reduction in expenditures was before the Senate in March of 1968, but it was on the verge of being defeated due to lack of administration support.

On a Friday, the day scheduled for the vote, the Senator from Florida (Mr. SMATHERS) and I received a call from Secretary of Treasury Fowler and from Mr. Martin, the Chairman of the Federal Reserve Board. They were calling from Stockholm and said that by no means should Congress be allowed to defeat that proposal that day because of the conference in Stockholm. The Secretary said to recess Congress unless we were sure of the votes. They emphasized that the following Monday the London gold pool was opening, and unless Congress had acted affirmatively when that pool was opened they predicted the American dollar would not stand for 72 hours. The Senate adjourned that Friday to avoid a negative vote on that bill until the Secretary could get back in the country and talk with enough Members on their side of the aisle to get votes to pass the bill, which we did on the following Tuesday.

In the minds of those on the Federal Reserve Board and the Secretary of the Treasury, that is how close we came to devaluation.

When they came back the President did endorse a $6 billion expenditure cut as a part of the top increase, and the bill went through Congress around the end of June. But the ink was hardly dry before the executive branch and the Congress began to whittle on the reductions and we ended up with no reductions in expenditures.

Later, after the bill was enacted, the Federal Reserve Board in the last part of 1968 pumped into the economy an unusual amount of money, which further fanned the fires of inflation. Here today we are with another increase in the cost of living of another one-half of one point in the last month. That is the equivalent of a rate of 6 percent per year on an average.

We talk about social security increases. I would like to see social security payments increased, and I would like to vote for them. But at the rate of increase in the cost of living, 6 percent of that increase will be gone before another Christmas rolls around. Inflation is taking it away from them faster than Congress can give it to them. Sooner or later Congress must face the fact that inflation cannot be controlled with pious speeches. Inflation has to be controlled with hard votes. We may have to cut down on programs we think are good, but let us tell the American people we cannot give them this tax reduction at this time. Those who invest in bonds or securities are going to look down the road 3 years from now and try to predict the inflation results. Will or will it not be controlled? They see a $9 billion tax reduction being approved here for next year, and they see us with an unbalanced budget, and more tax reductions promised for later years, all at a time when we are running a deficit of over $700 million a month. There is no chance in the foreseeable future of reducing this deficit; no chance at all.

Those who think there is a chance should remember that as the result of what we are doing here today within 3 or 4 months they will be requested to raise the ceiling on the national debt. If this bill is passed there will be a request to raise the national debt by $5 to $10 billion so they can borrow the money to finance the tax reductions which are being voted today. I say that does not make sense, and I do not think the American taxpayers are going to be fooled with this political shell game going on in the Congress. We are taking away in inflation more than this tax reduction. Our cities and States cannot borrow money today with interest rates as they are.

The reason they cannot borrow with these high-interest rates is that those who are investors in bonds are insisting that the bonds carry interest rates high enough, first, to offset the projected inflation, which is running at an annual rate of from 5 to 6 percent, plus a reasonable return on their money—4 or 5 percent—thus ending with 10-percent money. One is not going to get away from

a 9- or 10-percent interest rate with a rate of inflation in this country of .5 percent per month, or 5 or 6 percent a year.

I recognize that social security beneficaries do need some increase, but this is the first time in my 23 years of service that Congress has ever considered passing an increase in social security payments without including in the same bill provisions to raise the revenue to finance such an increase. I repeat, this is the first time to my knowledge that Congress has ever voted an increase in social security benefits without providing the necessary tax to pay for it.

I think we should finance the benefits that we give under social security. The argument is made that it is not necessary to provide a financing provision; that there is an annual increase in the social security fund. The increase in the trust fund this year is estimated at $9 or $10 billion. But let us not forget that the bulk of American workers are between the ages of 25 and 40. Those persons are contributing from their payrolls into the social security trust fund, just as civil service employees are paying into their retirement fund, with the thought that when they reach the age of retirement they will have laid aside enough to take care of themselves in retirement. What we are saying today is that Congress can dissipate, that we can spend for benefits today. This is their money and our Government is the trustee. We are destroying their security for tomorrow because those people will now be dependent upon the whim of Congress to repay the money with which to pay their benefits.

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

Mr. WILLIAMS of Delaware. I yield.

Mr. CURTIS. The distinguished Senator from Delaware, as usual, is making a necessary and profound statement. The social security reserve does not contain sufficient amount. The fact is that it has enough to pay benefits for only about 15 months. Congress has always held that the fund should never have less than enough for 1 year—and never have a reserve and no profit for a year. It is barely over a year at this time.

Mr. WILLIAMS of Delaware. Congress heretofore said we should never go below 3 years' protection. The Ways and Means Committee and the Chairman of the Finance Committee also took that position. In recent years this coverage has been reduced to just over a year. This fund builds up over a period of high employment; and then in low employment or lower overtime payments when more people retire; out-go increases while the income decreases, and the so-called surplus could vanish overnight.

One of the most important things to those who retire on pensions, whether it be Government, social security, State or private pension, is the knowledge that that fund will be solvent as long as they live, regardless of how long that may be, and that the purchasing power of the pension they are looking forward to collecting will remain sound.

Somebody suggested the other day, did we think the situation would ever arise when this country could not pay its bills? I said no, because in the history of the world, I did not know of a single country that ever defaulted on paying its obligations, even those whose currencies became worthless.

The reason is that as inflation takes over they can print a thousand dollar bill or a five thousand dollar bill just as easy as a one thousand dollar note or a five thousand dollar bond. When they go bankrupt they just turn on the printing presses and pour out money and pay off their obligations. Of course, it has no purchasing power. That must not happen here in America, and it need not happen, but some effort must be made and some thought given to protecting the purchasing power of the American dollar.

That cannot be done by approving irresponsible tax reductions in the face of huge deficits.

That is the reason I shall not support this conference report, not on the basis of its reform provisions, because they do have merit and many of them I have been working for for years; but I do not want to be a party to projecting multibillion-dollar tax reductions down the road 3 years from now when I do not think the American people will get that tax reduction, or if they do it will be only at the staggering cost of additional inflation.

I repeat that the criticism I am making of the tax reduction features in the conference report are also, as I said in the Finance Committee and on the floor of the Senate at the time we debated this bill, equally applicable to the rate reduction proposal in both the House bill and in the Finance Committee bill. I am speaking of tax reduction in general at this time.

I think that this is the time when we cannot afford to cut taxes by $9 billion—$9 billion which we do not have unless we borrow the money.

I conclude my remarks with this word of caution, that before this Congress has adjourned, not this session, but before another 6 months have passed, if we proceed with this so-called tax reduction bill we will be back here raising the ceiling on the national debt in order to finance the tax reduction the Senate will be voting here today. I say that that cannot be justified.

Mr. GRIFFIN. Mr. President, will the Senator from Delaware yield for a question?

Mr. WILLIAMS of Delaware. I yield.

Mr. GRIFFIN. I want to commend the distinguished Senator from Delaware for making a very important contribution to a better understanding of this conference agreement. In the eyes of the public, he is the watchdog of the Treasury. He fully deserves that title.

The Senator focuses on a number of provisions in the conference agreement which have not been discussed before. I was particularly interested in his reference to the provision concerning the tax deduction on credit which is given when public officials contribute public papers to a university. The date, as I understand it, was adjusted in conference to July 25, which is a rather unusual date. It is not the beginning of a fiscal year. It is not the beginning of a calendar year. It is not upon enactment of a law.

I recall that the Senator from Massachusetts, the majority whip, gave a very important speech on the floor of the Senate indicating that he wanted to know and have brought to light who the individuals or corporations were who would benefit by these particular changes in the law. I just wonder whether the Senator from Delaware, or anyone else, could enlighten the Senate as to who might benefit by that particular adjustment of the date?

Mr. WILLIAMS of Delaware. I will leave it to the Senator from Massachusetts to put the names in the RECORD. He should be more familiar with them than I. But it could be any public official who wished to take advantage of the advance knowledge that this loophole was going to be closed or that it had been proposed.

So far as the date of July 25 is concerned, it should be pointed out that there was some basis for accepting that, even though I disagreed with it. That was the date the House acted on the tax reform bill. Perhaps the conferees figured that it should not go back beyond the date on which the House had acted. That may account for the July 25 date, but in my opinion it was a mistake. This was one loophole that should have been closed effective for the full taxable year.

Furthermore, there were other measures which were made retroactive.

Mr. GRIFFIN. The investment tax credit, for example.

Mr. WILLIAMS of Delaware. Yes; that dates back to April.

But another reason, early in the spring I made a statement on the floor of the Senate that an effort would be made to close this glaring loophole and offered as an amendment to the committee for inclusion as a part of the tax reform bill. I said at the time that I would propose that it be made effective the first of the year because otherwise, with the advance knowledge that this was going to be offered, public officials could, if they wished, transfer their papers before the effective date. Former members of the executive branch or Congress could easily figure that this amendment may pass and hasten to transfer their papers to a private library or some university. Since we were trying to close loopholes and eliminate the possibility that other taxpayers could take advantage of the advance knowledge we who write the laws should at least make sure that we abide by the same rules.

That is the reason I thought it was very important to have a date of January 1, 1969. I do not think public officials were ever entitled to the advantage of such a loophole in the first place. It is a glaring loophole, one that should have been corrected long ago. I do not think a public official should take a charitable deduction for papers and files that he accumulated while serving on the public payroll. Why should any public official be able to set up a library in his own name, as some people have done, and then contribute their official papers to the library and get a big tax deduction? Yes, public officials can contribute files to their own libraries and get big tax credits for them. That is ridiculous; and why should not the repeal of this loophole be made retro-

active to the first of this year? Only last July the Congress passed a 10-percent surtax and made it retroactive to the first of the year.

The Finance Committee, as I recall, unanimously approved the January 1, 1969, date. I do not argue but that the Senate conferees tried to hold the Senate position and that the date of the 25th may have been taken because that was the date on which the House acted on the original bill.

But this was a loophole that benefits primarily public officials. Certainly if we are going to talk about closing loopholes Congress should start in its own back yard first. That is the reason I was so concerned that the loophole be plugged as of the first of this year. As the former Secretary of Health, Education, and Welfare testified before the committee, by approving a deferred date all of those who left Government service early this year would be taken care of before the loophole was closed.

Mr. GRIFFIN. As I understand, if former Presidents or Vice Presidents or Members of Congress had given their papers to a university or a library established in their own name this calendar year, but prior to July 25, they will get the benefit of that tax provision.

Mr. WILLIAMS of Delaware. That is right. They can have it appraised and get the full benefit by claiming its appraised value as a charitable contribution for tax purposes.

Why should the effective date be deferred so that a group of public officials can take advantage of the loophole before it is closed?

Mr. WILLIAMS of Delaware subsequently said:

Mr. President, I ask unanimous consent to have printed in the RECORD three editorials, one from today's New York Times and two from today's Washington Evening Star.

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

[From the New York Times, Dec. 21, 1969]

FRAUD ON THE TAX FRONT

The House-Senate conference committee has produced a tax bill that appears certain to be passed overwhelmingly in Congress this week. The bill was tailored by the committee to be veto-proof when it reaches President Nixon, and it does represent a marked improvement over the atrocious Senate version. Chairman Wilbur Mills of the House Ways and Means Committee has stated flatly that the revised measure "is certainly not inflationary," and Mr. Nixon has indicated to Senate Minority Leader Hugh Scott that the conferees' actions have improved the chances of Presidential signature.

Unfortunately for the nation, however, the bill remains decidedly inflationary. The alarming degree to which this is true is masked by the data on revenue gains and losses that the U.S. Treasury and Congress are putting out. In fact, there has been what amounts to a conspiracy between the Administration and Congress to disguise the true extent to which the proposed tax action is inflationary in the short run, as well as how substantially it would give away Federal fiscal resources in the long run.

The revenue estimates released by the Administration and Congress indicate that the revised tax bill will increase the net revenues of the Federal Government by $6.5 billion in 1970 and by $315 million in 1971, and that, even in the long run, it will result in a net revenue loss of only $2.5 billion a year.

There are two basic fallacies in these estimates:

First, they take no account of the future growth of the economy, which would greatly swell the revenue losses in the years ahead. Reasonable growth projections would cause the revenue losses to increase by 8 to 10 per cent per year.

Second, they treat the reduction and repeal the 10 per cent surtax, which has been yielding $12 billion a year, as though it were a $3-billion increase of revenues in 1970—instead of what it actually represents, a $9 billion reduction in revenues in 1970 and a $12 billion reduction in 1971 and the ensuing years. The same treatment is given to the temporary extension of automobile and telephone excises; these are carried forward as a $1.2 billion gain in 1970 and thereafter gradually reduced. In fact, these changes in the excises represent no gain in revenues in 1970 and a gradual loss thereafter.

The upshot of this accounting gimmickry is to show a $6.5 billion revenue gain in 1970 when the right figure, to indicate the fiscal impact as compared with 1969, should be a net revenue loss of at least $8 billion. Similarly, the Administration-Congress published figure of a net revenue gain of $315 million in 1970 should be a revenue loss of at least $13.5 billion. Given the present inflationary state of the economy, this is both irresponsible and dangerous.

In the long run the revenue losses built into this legislation may be even more serious for the nation, confronted as it is with enormous unmet social needs. Without figuring national income growth, those losses will amount to at least $15.5 billion a year. With growth included, the annual revenue loss could total as much as $30 billion in seven years.

How have the Administration and Congress produced this misleading accounting? Simply by assuming that if Congress did not act on this bill the surcharge would lapse and the excises would expire Thus they are comparing the fiscal effects of the tax bill with the no tax bill at all affecting 1970 rather than with what the existing tax system of the nation is actually yielding in 1969.

It is difficult to know why this was done. The President apparently committed himself too early to reduction and repeal of the surtax; he was thereafter mousetrapped by whatever Congress—unwilling to raise taxes in the face of voter resistance—did on the so-called tax reform bill. Congress has suffered flight from fiscal realism that can only be regarded as the result of a lack both of party leadership and of firm direction from the White House.

It is now only too clear that the national interest calls for a veto of this tax bill and a new start on fiscal policy. What started as a heroic effort to inject more fairness into the tax structure has turned into a fiscal disaster that contributes only moderately to greater tax equity. The best out at this point would be a simple continuation of the surtax at its present level until the end of the Vietnam war permits a major reduction in military spending. But the President has boxed himself in and seems bound to sign the bill that Congress has produced. The tax folly of 1969 will cost the nation dearly unless corrected over time.

[From the Washington Evening Star, Monday, Dec. 22, 1969]

THE TAX BILL

The tax bill, on Congress' platter today, is an eminently better piece of legislation than the fiscal Christmas pudding stuffed with inflationary calories that the Senate sought to serve the President.

In normal times, such a bill could expect to receive the unqualified blessings of the White House. But these are decidedly abnormal times, with price rises gobbling up wage increases in the worst spiral since 1951.

Mr. Nixon is in the decidedly uncomfortable position of being damned if he does and damned if he doesn't. The political consequences of vetoing a bill that includes benefits for all taxpayers and a 15 percent rise in Social Security benefits for 25 million Americans could be disastrous for him in 1972.

But a failure to halt the erosion of the dollar's value could be equally fatal in a political sense, and ruin the country in the bargain. Thus the President's decision must hinge on his assessment—and on that of his economic advisers—as to what effect implementation of the bill would have on the economy as a whole.

The final bill reported out by a joint conference committee Friday is much closer to the more reasonable House bill than it is to the Senate's bauble-loaded version. And Mr. Nixon is not committed to vetoing the bill as it stands. He had stated baldly that he would veto a bill containing both a 15 percent Social Security hike and a rise in the personal exemption to $800; the conferees let him off the hook by raising the exemption to only $750 between now and 1973.

The details of the joint bill have been recounted fully in the news columns of this newspaper. The basic point is the effect of the bill will be to raise revenue by $2.2 billion next year and hold the loss in 1971 to a manageable $485 million.

But the fiscal rub would come in 1972 and 1973, when the deficit would rise to $2.6 billion and $4.2 billion respectively, before leveling out over the long run to an annual loss of $2.5 billion.

Mr. Nixon has threatened to veto any tax bill costing too much revenue and jeopardizing the budget surplus he considers essential to control inflation. He is correct in this.

But the final joint version appears to be acceptable in the short term. The question is whether the long-term loss of revenue is tolerable and can be dealt with in other ways. If inflationary pressures are still severe in 1972, for instance, it would be possible to enact a new law raising taxes.

The President's decision will be a crucial one which will affect not only his own political future but the lives of all of us. Congress, recovering from the Senate's binge of fiscal irresponsibility, has given him a bill which it seems possible for him to sign.

But he alone can make the determination. If he feels that it would be deleterious psychologically for the nation's discipline for him to sign the bill, then he may have to veto it.

[From the Washington Evening Star, Dec. 22, 1969]

DECISION ON TAXES CRUCIAL FOR NIXON

(By David Lawrence)

President Nixon faces the most crucial decision he has had to make on domestic problems since he was inaugurated—whether to sign or veto the so-called "tax reform" bill. It's a choice between a reduction of taxes that can result in a recession and taking a firm stand that will prevent deficit financing of the government and serious handicaps to business development.

For the "tax reform" bill is a hodgepodge of what seems on the surface to be politically "popular" but in reality could be repudiated in the next election if the voters are given the real truth about the causes of higher and higher prices and the curtailment of the purchasing power of the dollar.

The "tax reform" bill is in certain respects a destructive measure. It disturbs many a business which has set up pension benefits. It discourages those property owners who now will have to ask higher prices in order to offset the increase in taxes on capital gains.

Theoretically, the bill distributes more money for individual spending. But prices are bound to rise and the present inflationary trend will be maintained. While the bill cuts some tax rates, others are increased. On the whole, the federal budget will be adversely affected and deficits will continue, thus helping to depreciate the dollar.

Hitherto the emphasis has been on restraining inflation, but the new tax bill is bound to enlarge its scope. While collecting more revenues through new tax rates, the proposed law calls for more federal disbursements which use up the greater tax receipts and leave a deficit besides.

Only a few days ago, the National Planning Association through its chief economist predicted that the nation is flirting with a recession and that "inflation is apt to be excessive next year, even with high unemployment." Also, the consumer index just issued by the federal government shows that prices are steadily going up and the dollar value keeps on going down.

Under these circumstances, the President is in a position, after analyzing the "tax reform" bill for the American people, to tell the country how the increases in revenue obtained by imposing heavier taxes on business and on the higher income groups are wiped out by new appropriations.

Most members of Congress who voted for the measure thought it would bring them votes in the election next November. But if times are bad and the money saved by tax reduction is offset by price increases, the voters are likely to blame the Democratic party, which seeks to retain control of both houses.

Will the President have the courage to veto the "tax reform" bill? It is not easy to tell whether the electorate will perceive the reasons for the spread of inflation. But certainly a president can give the facts to the public and refuse to take the risk in signing the new tax bill. He can, if he wants, apply a "pocket veto" by not signing the measure for 10 days if Congress is in recess and explaining then why he feels it would be harmful to the economy. He could, on the other hand, sign the bill, and, while pointing out some of its good provisions, call for prompt repeal of those sections which can be expected to intensify an era of excessive spending.

Beneath it all, too, is the effect of the new tax measure on business operations in America. Incentive is in many ways impaired. There will be an adverse impact on the normal operations of the economy. Increasing tax rates, for instance, on the high incomes of talented personnel may look attractive as a revenue-raising device, but the companies which employ those individuals will have to move up salaries substantially. This, together with labor union demands, can result in raising prices on goods to be sold.

It is tragic that the Congress of the United States has tried to change important parts of the tax structure so hastily instead of appointing a commission of disinterested experts to devote at least a year to careful study of alternatives. To modify arbitrarily tax laws that were in the main written 30 years ago and have been imbedded in the economic system for such a long time requires a nonpolitical approach governed by only one consideration—the public interest as a whole.

Mr. LONG. Mr. President, since the Senator brought this up, permit me to say the House passed a bill in which it stated that a gift of appreciated property, which if sold would result in ordinary income, would be taxed as it has been taxed in the past, provided that the gift occurred prior to December 31, 1969. The House Committee announced that decision to the press on July 25. It was the suggestion of the Senator in the committee that it should be effective as of December 31, 1968. The Senator can tell us whom he wanted to get with his amendment. As far as I am concerned, it was of no particular concern to me.

When we settled this matter in conference, we took the date the House Committee announced its decision to the press, and there was not much discussion one way or the other. In any event, we in the committee were acting retroactively, back to December 31, 1968. What the conference did was say that if a man had made a gift anytime after July 25, he would be taxed under the new law, rather than the law that had existed prior to that time. That is what seems fair since this was the earliest date there was any knowledge of a committee decision on this point. It was the Senator's suggestion that the tax be retroactive, to tax any donation someone had made, with regard to papers, letters, or memorandums, back to the first of this year.

I would suggest that the Senator find out, if he can, whom he might have involved in that class. So far as I know, it benefited no one as a result of the adoption of the July 25 date. The House had a date which applied only at a date beginning in the future; the Senate had a retroactive date. As the bill was adopted, it was a compromise between the prospective date, which was the House provision, and the retroactive date, which was the Senate's provision.

So if the Senator was aiming at anybody when he offered his amendment, he can explain at whom. I was not aiming at anyone.

Mr. WILLIAMS of Delaware. I was not aiming at anyone because it was applicable to all public officials. I wanted to close the loophole.

Mr. LONG. If the Senator wanted to get someone, why does he not find out who it was he was getting.

Mr. WILLIAMS of Delaware. I said closing of the loopholes should apply to all. As it has been passed, the law is general.

Mr. LONG. I ask the Senator if the logical way to handle a bill, when the Senate's version taxed it retroactively to January, and the other version taxed it prospectively to the end of the year, would not be to adopt the date on which the House passed the bill?

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

Mr. WILLIAMS of Delaware. I yield.

Mr. HOLLAND. There is nothing in this bill that forecloses any person in public life from giving his papers or pictures or memorabilia to a university or library, is there?

Mr. WILLIAMS of Delaware. No. In fact, I think that the gift of these papers should be encouraged, and those papers should be made available. This provision does not prevent that. It merely provides that whoever gives those files or papers does not get a tax credit for something that did not cost him anything.

Mr. HOLLAND. Perhaps I misunderstood the colloquy between the Senator from Michigan and the Senator from Delaware, but I understood that those of us who have given such files and objects now would have the chance to go back and claim a tax credit. I want to make it very clear that I do not so regard the situation. I have given such papers as I have accumulated, back through many years in public life, the State Senate, the governorship, and the Senate here for perhaps 18 years—I do not remember exactly how many—to the University of Florida. I am happy that they wanted these objects. I do not understand I have any right to expect a tax credit on account of that. I would not want my opinion to prevail in my State that I would have the right to claim such a tax credit, and I do not think anything in this debate should be allowed to give such an impression. Perhaps I got an impression that was not sound.

Mr. WILLIAMS of Delaware. No; I am not giving that impression at all. I know many other Members of the Senate who have likewise given their papers away and who would not claim such a tax credit even if they knew the law existed. But about the first of the year attention was called to the fact that such a possible tax loophole existed, and I thought it should be closed. Some public officials have taken advantage of this loophole. I think any public official should be able to turn such papers over to a library, but he should not get a tax credit for them based on appraised value. That is what he could get under existing law, and in my opinion it is wrong.

As I stated, while I would like to see the effective date January 1, 1969, I accept the decision of the conferees because in conference all legislation becomes a compromise. The date in the House bill was prospective; the date in the Senate bill was retroactive. As the distinguished chairman said, the date was fixed as of the date the House passed the bill, the 25th of July. I have outlined my reasons for supporting the January 1, 1969, date.

I thank the Senator from Louisiana; in committee he strongly supported the position I took.

Mr. HOLLAND. Mr. President, let me just add that I claim no credit on that account, but I simply want the RECORD to show that both as to some tons—two truckloads, as a matter of fact— already held by the University of Florida and the additional ones that will go there at the time I retire next year—and I believe the Senator and I will retire at the same time—there is not only no thought of compensation or any tax credit, but I have always felt that those things are charged with a public interest, that they are acquired and come to us in public service; that what we should do is find a public place for their care, indexing, and being made available.

It would never have occurred to me, until the talk started about a year ago, that anybody would have claimed a tax credit. And I do not think anything in this debate should be permitted to give the idea to anyone that Senators or Representatives, or Governors, or Cabinet members, or Presidents, or anyone else who has been in public life, should not have the complete right to give away for proper caretaking, preservation, and availability to those who may be in-

terested, all matters of this kind, which is exactly what the Senator from Florida has done, and I am sure is what the Senator from Delaware will do.

Mr. WILLIAMS of Delaware. Mr. President, I think the RECORD is clear, and I am ready to yield the floor; but I had promised first to yield to the Senator from Arizona.

Mr. FANNIN. Mr. President, I compliment the Senator from Delaware for the distinguished record he has made, and for his dedicated services. I know that the conference committee did not have his services, and I commend the Senate conferees, but we are very proud to have had the leadership of the Senator from Delaware here in the Senate, and we are very thankful for the work he has done.

Mr. President, I should like to address a question to the distinguished chairman of our committee. With reference to the taxation of stock dividends in section 421 of the bill, I have in mind a corporation which, under the transitional rules, is permitted to issue a particular type of stock which by its terms is convertible into other stock not within the transitional rules. Is my understanding correct that a corporation will not lose this transitional right when a shareholder who receives the convertible stock demands conversion into stock not directly covered by the transitional rules?

Mr. LONG. Yes, the transitional rules would continue to apply, nothwithstanding the conversion of stock into a type of stock not directly covered by the transitional rules.

Mr. FANNIN. I thank the distinguished chairman, and at this time I express my appreciation to him for the way in which he handled the committee all the way through the hearings and then through our executive sessions, and for the fairness and courtesy he extended to all the members, for the way he kept things moving, and naturally, of course, for his distinguished leadership as exemplified in the conference.

Mr. LONG. I thank the able Senator from Arizona for his kind words, and also for the very diligent work he did to improve this bill in the committee as well as on the floor of the Senate.

Mr. GORE. Mr. President, I should like to make a few observations on the development of this historic legislation.

To begin with, the Senate committee held extensive hearings on the bill—more extensive than those held by the other body. I do not say that as any criticism of the House of Representatives. The Ways and Means Committee held extensive hearings on the general subject of tax reform. The Senate Committee on Finance, however, held extensive hearings on the specifics of the bill passed by the House of Representatives.

We have heard a good many remarks today about the action of the Senate and the action of the conferees representing both the House and the Senate. In this legislation the Senate has fully reclaimed its position of parity in tax legislation, with the exception of the constitutional prerogative of the other body to initiate a revenue measure. There was a time, not many years ago, when the House of Representatives fiercely resisted any major amendments added by the Senate to a revenue measure.

On this particular bill, the careful consideration given to the measure indicated the need for a large number of amendments. Some amendments, of course, were adopted which I did not think were wise. Many were adopted which I thought were needed. Let me offer some statistics in that regard.

The Senate added 376 substantive amendments in the committee and on the floor, mostly in the committee. Those amendments resulted from long hearings of the many witnesses representing the many interests affected by this bill. A great deal has been said in compliment of the distinguished chairman for holding those hearings. He is entitled to every word of commendation he has received, and I associate myself with those who have commended him. He stayed on the job every day, and we held hearings comprising more than 7,000 pages of record.

This is the largest tax bill in the history of our Republic. It affects everyone and every economic interest. People had a right to petition that their interests be considered, and they were considered.

What happened to those 376 amendments? In conference, the conferees representing the House of Representatives accepted without change 237 of the Senate amendments. They accepted with amendment to the amendment 71 of the Senate amendments. In total, this conference report embodies 308 amendments placed in the bill by the Senate.

The Senate receded and accepted without change 53 provisions in the House bill which were not approved by the Senate. We accepted with amendment seven more.

So, Mr. President, the work of the Senate with respect to this bill is monumental and meaningful. The two principal benefits to the people in the bill came from amendments offered on the floor of the Senate and adopted by the Senate. I refer to the amendment providing a 15-percent increase in social security benefits, and to the amendment providing tax relief by way of an increase in personal exemptions.

Perhaps the Senate would find interesting the effect of the bill on the withholding tax on salaries and payrolls. I have asked the staff to calculate the withholding tax on salaries of $6,000 per year, $9,000 per year, and $12,000 per year, for a taxpayer with a wife and four children, a taxpayer with a wife and two children, and a single taxpayer. As I say, I think perhaps the Senate will find these figures interesting.

A taxpayer with a wife and four children, on a monthly salary of $500, will have withheld from his salary check in January 1970, $22.68. In July 1970, he will have withheld $17.39.

In January, 1973, when the bill is fully effective, there will be withheld from his salary $5.88.

Mr. President, to translate that to a weekly wage, the weekly wage is $115.38.

The withholding on that weekly wage in January 1970 will be $5.33.

In July 1970, it will be $4.07.

In January, 1973, when the law will be fully effective, it will be $1.40.

Mr. President, let us take a taxpayer with a wife and four children who earns an annual salary of $9,000. His monthly salary would be $750.

There will be withheld from his salary in January, 1970, $64.42.

In July, 1970, it will be $57.72.

In January, 1973, it will be $42.96.

Mr. President, taking the same taxpayer, the man with the same number of dependents and the same anual income, his weekly wage would be $173.08.

His January, 1970, weekly withholding will be $14.96.

In July, 1970, it will be $13.38.

In January, 1973, when the law will be fully effective, it will be $9.96.

Mr. President, let us take the example of a taxpayer with the same number of dependents, but with an annual income of $12,000. His monthly salary would be $1,000.

In January 1970, there would be a monthly withholding from his salary of $109.42.

In July 1970, it would be $100.22.

In January 1973, when the law will be fully effective, it will be $82.54.

Mr. President, translating that to a weekly wage, his weekly wage would be $230.77.

In January 1970, there will be a weekly withholding of $25.35.

In July 1970, it will be $23.19.

In January 1973, when the law will be fully effective, it will be $19.10.

Mr. President, I would now like to consider the taxpayer with a wife and two children—something which is nearly the typical American family—and an annual income of $6,000.

Mr. President, I realize that when we break down a $6,000 annual income to weekly wages and calculate the amount withheld, we are dealing with small amounts. However, we are also dealing with people to whom small amounts are important. Such a man would receive a monthly wage of $500.

In January 1970, there will be a monthly withholding of $39.08.

In July 1970, there will be a monthly withholding from his salary of $35.64.

In January 1973, when the law will be fully effective, the amount will be $24.21.

Mr. President, translating the income of that taxpayer to a weekly wage, his weekly wage would be $115.38.

In January 1970, his weekly withholding will be $9.09.

In July 1970 it will be $8.28.

In January 1973, when the law will be fully effective, it will be $3.47.

Mr. President, I will consider now the example of a man with a wife and two children who earns $9,000 a year. He would have a monthly wage of $750.

In January 1970, $82.42 will be withheld from his monthly salary.

In July 1970, it will be $76.14.

In January 1973, when the law will be fully effective, it will be $62.54.

Mr. President, translating that to a weekly salary, a man with a wife and two children and with an annual income of $9,000 a year will have a weekly salary of $173.08.

In January 1970 there will be withheld

from his weekly salary the amount of $19.10.

In July 1970 there will be withheld $17.63.

In January 1973, when the law will be fully effective, the weekly withhold on such a salary will be $12.17.

Mr. President, let us next take the taxpayer with a wife and two children and an income of $12,000 a year. His monthly salary would be $1,000.

In January 1970 there will be a monthly withholding from his salary of $128.41.

In July 1970 it will drop to $119.13.

In January 1973, when the law will be fully effective, it will drop to $102.54.

Mr. President, translating that into a weekly wage, a person with a $12,000-a-year income has a weekly wage of $230.77.

In January 1970 the weekly withholding on that amount will be $29.72.

In July 1970 it will be $27.55.

In January 1973, when the law is fully effective, the weekly withholding will drop to $21.40.

Mr. President, I would like now to consider the example of one more taxpayer for whom the bill we are about to pass provides considerable relief. That is the single taxpayer.

Many of us have felt that the man without dependents has had to pay an unusually heavy part of the burden.

A single taxpayer without dependents, and with an annual income of $6,000 receives a salary of $500 a month.

In January 1970 the monthly withholding from his salary will be $75.42.

In July 1970 it will drop to $71.30.

In January 1973, when the law becomes fully effective, it will be $61.70.

The single taxpayer earning $9,000 a year would have a monthly withholding in January 1970 of $127.92.

In July 1970, it would be $123.80, and in 1973 and thereafter $111.70. The same single taxpayer with an income of $12,000 a year would, in January of 1970, have a withholding from his monthly salary of $191.22; in July of 1970, $184.89; in January of 1973, $163.16.

Mr. President, these amounts of tax reduction, to a Member of the Senate, favored as we are with a larger salary, may, indeed, seem small. But let me repeat that this is tax reduction for people who have small incomes. People with small incomes and with dependents to support find tax reductions even in small amounts are very helpful. From the messages I have been receiving, people are very happy, indeed, with the passage of this bill.

Before closing, I wish to express my deep appreciation to the generous remarks that the chairman of the committee and other of my colleagues have made on the floor of the Senate today with respect to my own efforts. I am very grateful. I express my gratitude again to the chairman of the Finance Committee and to each member of the committee for the pleasure of working with them, for the courtesies extended to me, for the patience and tolerance extended to me.

I thank, also, the staff of the committee and of the Joint Committee on Internal Revenue Taxation, and I express appreciation to my own staff. I think I have the ablest staff with which any Member of this body is favored—William Allen, Jack Lynch, Paul McDaniel, each in his own right a lawyer, a student, each in his own right possessed with intelligence, character, and energy. It has been a pleasure to work with Larry Woolworth, Tom Vail, Bill Allen, Jack Lynch, and Paul McDaniel. They fortified me with the information, with the advice, and with the opinions; and my colleagues in the committee, in the conference committee, and in the Senate were very generous, patient, tolerant, and understanding.

This is a monumental work. Perhaps mine has been the most persistent voice in the Senate for tax reform for a decade. We have achieved a great deal of tax reform here. I would not be candid if I did not say that the conference report we are about to adopt contains some provisions which I resisted. It contains some provisions which I resisted fiercely. I shall not describe them or identify them now. I shall do so later. But, for now, let me speak of the positive features of this bill.

It has two major parts: One, tax reform, by which we are requiring many people in various segments of our society who, in the opinion of the committee, heretofore have not paid their fair share of the tax burden to pay a fairer share of that tax burden now. By tightening tax preferences or removing them, this bill brings into the Treasury additional revenue of some $6.6 billion. This is major tax reform. When we bring into the Treasury, not through new taxes, not through new levies, but through elimination of tax preferences, $6.6 billion, I say that is major tax reform.

The second major provision of this bill is the distribution of tax relief, largely, as I have said, through an increase in the personal exemption. In the long run, the bill distributes something more than is recouped through tax reform. But we have a right to expect peace in Vietnam; and, as a consequence, we have a right to expect and hope that in later years the expenditures for war will not be upon us and that the burden of expenditures can be reduced. To what better purpose could we place a small part of the cost of that war, if it can be brought to an end, than to give small amounts of tax relief to the people with small incomes and children to support?

I say, Mr. President, this is a proud day, and I am proud that it comes so near Christmas; because tax reform and tax relief are indeed welcome presents to the American people.

Mr. CURTIS. Mr. President, at the outset, I wish to express my gratitude to the distinguished chairman of the Committee on Finance, the Senator from Louisiana (Mr. LONG); the distinguished ranking minority member of the committee, the Senator from Delaware (Mr. WILLIAMS); and all my colleagues on the Finance Committee for their cooperation, their assistance, and the generous way in which they have handled this matter so far as the wishes and desires of the various members of the committee are concerned.

There comes a time when every man has to decide for himself whether or not he shall support proposed legislation. In arriving at my decision I assume my own responsibility only and do not attempt to make a decision for anyone else.

I shall vote against the conference report on the tax bill. I voted against the bill when it was before the Senate. As a conferee, I declined to sign the conference report.

While I disagree with a number of sections of the bill, I applaud and support many sections relating to tax reform. Congress has an obligation to strive for tax reform. We should do this to bring about justice between taxpayers as well as to increase the revenue from those segments of our economy which may not be paying their fair share.

At this time I will not discuss the detailed features of the bill. I do want to make the observation that this bill discriminates against the middle class.

My opposition to this bill can be stated very simply. I do not believe that we should reduce taxes if we have to borrow the money to do so. I do not believe that we should reduce taxes if to do so increases the deficit and adds to the national debt.

The bill as agreed upon by the conference would grant $1.4 billion in income tax relief for calendar year 1970, $4.9 billion of tax relief for calendar year 1971, and $7.3 billion in tax relief for calendar year 1972.

Mr. President, I hold in my hand the daily statement of the U.S. Treasury for December 11, 1969. It shows that the total outstanding debt is $372,707,695,-992.86. The shocking thing is that this same statement shows that the debt at this same time a year ago was $363,126,-294, 779.21.

Spending has not been reduced. Appropriations are running higher than the Nixon budget. The original budget estimates include increases in postage rates, social security taxes, and certain user charges, none of which have been enacted. There are other adverse factors in reference to our budget. The interest charge to carry the national debt is $1 billion above the original budget estimate for that expenditure. Corporate tax payments are off by a sizable amount. The deficit situation of the Federal budget is not improving.

Now, Mr. President, I realize that a discussion of the Federal budget is most confusing. It is confusing because the budget used fails to show where the Government stands from the standpoint of the general operating expenses of the Government and the revenue coming in that is available to meet those general operating expenses. For instance, when the Director of the Budget appeared before the Finance Committee last July he referred to an estimated surplus of $0.9 billion for 1969. Actually from the standpoint of the funds available to pay the general bills of the Government, we did not have a surplus but have a deficit of about $8.6 billion because the Budget Director was including a surplus in trust funds of $9.5 billion. The largest item of trust funds is of course the social security trust funds. These funds do not be-

long to the General Treasury. They are held not to pay the general bills of the Government but to pay social security beneficiaries.

In the Budget Director's testimony on that same day he stated that we would have an estimated surplus of $6.3 billion for the fiscal year which would end next June 30. Here again trust funds were taken into account. Were they to be disregarded, Mr. Mayo stated that we would have an estimated deficit of $4.3 billion next June 30. The budgetary picture is really more discouraging than it appeared then. I am convinced that if this tax bill becomes law all of its tax reductions will have to be made by increasing deficits and increasing the national debt. This is not fair to the people now. It is not fair to future generations of taxpayers.

There is nothing that can be said for this measure from the standpoint of fiscal responsibility. There is nothing favorable to be said for this bill from the standpoint of inflation control. It is very likely that increased costs of living will more than destroy the tax relief that comes to the individuals who receive the relief.

Mr. JAVITS. Mr. President, I would like to take just a few minutes to give my attitude on the tax bill. I think the situation which we face in the country is that tax reform—which is urgently needed—extension of the surcharge and excise taxes, and repeal of the investment tax credit, are all being held hostage for tax cutting. Now, sometimes one has to yield and surrender, but I do not think that is the case here. I voted to send the bill to conference in the hope that the revenue impact of the final bill would be negligible. But this is not the case. Hence, I must vote against the conference report. This is not an idle vote, and I would not cast it if it were an idle vote. I think the President will have to look very carefully at the rollcall in the Senate. I think the number of "nay" votes will be very, very meaningful. The President must come to a judgment in the best interests of our Nation with respect to the bill.

I am heavily motivated by the fact that we have many crying needs in this country. I will say right away, as the Senator from Delaware said very clearly, that certainly the conferees have done an excellent job. I am not complaining at all about that. But I do not think our country would dream of cutting taxes at this time if a tax-reform bill were not before us. Tax reform is being held hostage for an extensive tax cut. I think the cut is unwise and improvident for the classic reason that we are in the midst of a war, with its attendant inflationary pressures. The cut is also unwise at a time when the high cost of money is largely attributable to deficiencies in fiscal policies.

There is every promise that if we pass this bill, as it is indicated we will, the high cost of money will continue, because the Federal Reserve Board will be convinced that only monetary policy is going to be used in the struggle against inflation.

Speaking as a Senator from a State which has the biggest city in the country and several other large cities, I must emphasize that the main deficiency in this bill is that we are deciding now what we are going to do with the money which will be available from a growth in the economy and from the "peace dividend" which will come from a scaling down of the Vietnam war.

We are mortgaging that growth and that dividend to the extent that we face at least a $10 billion budget deficit as early as 1974. In my judgment the situation in our cities—the crisis of the cities—is so threatening to the domestic peace and tranquillity that I cannot in all conscience be a party to allocating that peace dividend to anything other than meeting the critical problems of our cities.

Always in this body, one has to some day vote "yea" or "nay." Nothing is ever black and white. I support the great bulk of the tax-reform provisions. I believe the extension of the surcharge is essential. Under the circumstances the repeal of the investment tax credit is indicated although at the appropriate time I wish to see the reimposition of an investment incentive in the form of revised depreciation schedules and methods of depreciation. I support the increased social security, benefits—although I agree with the Senator from Delaware (Mr. WILLIAMS) on the need for adequate financing. There are many other things about the bill which I would commend. But the fundamental problem is that we would not have dreamed of cutting taxes under these circumstances if this were not the price being asked of us to achieve tax reform. The taxpayers have been very restless about the inequities of the system. We also have to extend these excise taxes and decide about continuing the surcharge. But I think the price we are being asked to pay is much too high especially as it is likely to continue inflationary pressures which have been a cause for considrable concern. Especially as it deals with mortgaging now whatever fiscal and peace dividends may be available in the days ahead which will be so vitally needed for dealing with our most critical social problems. I do not feel that it is provident, representing my State, to bargain that away now for the superficial attractions of the bill, in view of the inflationary course on which we are seemingly continuing and its terrible drain on the economy.

If by some miracle the conference report is turned down by the Senate, or if the President decides, because he sees the strength of the opposition in the Senate, to veto the bill, I have every confidence that we will get a social security increase—probably with much sounder financing—that the surcharge will be continued as we all know it must, that the investment tax credit will be repealed, and that the substantive elements of tax reform arrived at by the conferees will, because of public demand, become law.

Therefore, I take this course of action in the hope that we would be saving the best and rejecting the worst, because one cannot have the choice of dividing the issue. We must vote yea or nay.

It is interesting to me that the Senator from Delaware (Mr. WILLIAMS) referred to the fact that in 1967, he and I—we are usually at different ends of the ideological spectrum—joined in urging the administration that if it were going to make war, it should tax as a government does when there is a war. The lesson is clear, we cannot have it both ways. Yet, that is the way, even now—after all the bittter experience of inflation—that we are proposing to proceed.

Again, though I feel that the conferees have done a fine job within the delineation of the principles upon which they have operated, I regret very much that I cannot support this conference report.

Mr. PERCY. Mr. President, I voted against the Senate Tax Reform Act of 1969. I rise now to support the conference report on the Tax Reform Act, and warmly commend the conferees for their efforts in writing a sound, compromise proposal.

This act as a result of the conference is now fiscally more responsible than the Senate-passed measure, while still extending much needed relief to low- and middle-income taxpayers. It likewise preserves most other tax reform measures for which the bill was originally designed.

The bill originally passed by the Senate, which I could not support, would have caused a revenue loss of $1.85 billion within the next 2 years and $14.7 billion through 1974. These are the crucial years for controlling and putting a stop to inflation. If a heavy budgetary drain had been permitted, the inflationary stimulation to the economy would have further severely undermined the value of the dollar and cruelly cheated those living on low or fixed incomes.

As now reported, the bill will produce a revenue surplus of $6.5 billion within the next 2 years and a $0.8 billion surplus through 1974, while still providing needed tax reform and tax relief to low- and middle-income wage earners.

Mr. President, in my election campaign of 1966, I pledged that I would do what I could to increase the personal exemption of $600 that has been in existence for over 20 years. I also pledged to try to provide tax relief for single persons, particularly those who, as heads of households, have been required to pay a disproportionate share of the tax burden.

With the help of many colleagues, headed by the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), the distinguished minority leader, the Senator from Michigan (Mr. GRIFFIN), as well as the able Senator from Kansas (Mr. DOLE), and with the technical cooperation of Assistant Secretary Cohen of the Treasury Department and his highly gifted staff, I introduced an amendment to the bill to fulfill that pledge of 3 years ago.

To have done so earlier would have been irresponsible, for the budget was in severe deficit positions at that time. We have, in fact, faced a deficit in every year since I came to Congress up until the present time. In addition, we did not have an adequate impetus for tax reform that could bring in additional revenue to offset revenue losses resulting from the recommendations I wanted to make. This year, however, the conditions were right and I was able to submit my amendments.

Mr. President, I ask unanimous con

sent to have printed in the RECORD a comparison of major tax relief provisions of the Percy-Dole, Senate, and conference provisions.

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

COMPARISON OF MAJOR TAX RELIEF PROVISIONS OF PERCY-DOLE, SENATE, AND CONFERENCE BILL

	1970	1971	1972	1973
Personal exemption:				
Percy-Dole	$650	$700	$750	$750
Senate	700	800	800	800
Conference	[1] 650	650	700	750
Low income allowance:				
Percy-Dole	1,050	1,000	1,000	1,000
Senate	1,000	1,000	1,000	1,000
Conference	1,100	1,050	1,000	1,000
Standard deduction:				
Percy-Dole	[2] 1,000	[3] 1,400	[4] 1,700	[5] 2,000
Senate	[2] 1,000	[2] 1,000	1,000	1,000
Conference	[2] 1,000	[3] 1,500	[4] 2,000	[5] 2,000
Rate relief:				
Percy-Dole (percent)	0	0	1.25	2.50
Senate	0	0	0	0
Conference	0	0	0	0
Single persons:				
Percy-Dole	0	([6])	([6])	([6])
Senate	0	([7])	([7])	([7])
Conference	0	([7])	([7])	([7])

[1] Effective July 1, 1970.
[2] 10 percent.
[3] 13 percent.
[4] 14 percent.
[5] 15 percent.
[6] Maximum of 20 percent over joint return rate.
[7] Same.

Mr. PERCY. Mr. President, the work of the conferees is particularly gratifying to me, because the compromise agreed to on personal income provisions closely conforms with the amendment I offered together with Senator DOLE when the matter was before the Senate for debate. Taxpayers will now be entitled to a personal exemption of $650 beginning July 1, 1970, $700 in 1972, and $750 in 1973. In addition, a low-income allowance of $1,000 has been provided, relief for single persons has been included, and a graduated increase in the standard deduction has been concurred in leading up to 15 percent at a $2,000 ceiling by 1973.

The bill out of conference contains many other provisions, Mr. President, which I supported during Senate debate while excluding some that were unsound in my opinion. Among the former are the inclusion of a minimum income tax to prevent individuals from totally avoiding tax obligations; the closing of many tax loopholes; and the tightening up of public supervision over private foundations, including a requirement, offered as an amendment that foundations pay out at least 6 percent of their assets for philanthropic causes each year.

Among the unsound provisions that were deleted, I am gratified that one in particular was eliminated. This was the grant of authority to impose quotas on foreign imports. While additional effort will have to be made in the future to spur U.S. exports while assisting U.S. industries harmed by heavy imports, the application of quotas is not the solution. Quotas only lead to inefficient commercial endeavor, a misuse of resources and factors of production, higher consumer prices, retaliation, and a depressed world economy.

Finally, Mr. President, I particularly wish to commend the conferees for agreeing upon a social security amendment which increases benefits to security recipients of 15 percent while not imposing an undue drain upon wage earners or unduly furthering the inflationary spiral.

This is now, on balance, a good bill, Mr. President, which I hope the President can and will support.

I urge adoption of the conference report.

Mr. President, at this time I should like the Senate to know of my personal admiration for the great work of the majority leader who kept our noses to the grindstone and kept a schedule for consideration of this bill that many believed would be impossible to achieve.

He has had the full and complete cooperation of the minority leader.

I also have great admiration for the tremendous job done by the chairman of the Finance Committee, the Senator from Louisiana (Mr. LONG).

He kept a backbreaking hearing and markup schedule, with the complete cooperation of every member of the committee, especially of the ranking minority member, the Senator from Delaware (Mr. WILLIAMS). He also kept the Senate fully informed every single day the bill was in committee as to what was transpiring in the committee so that we could read in the RECORD every morning what had happened the day before. The thorough analysis and summary of the hearings and the recommendations that were being made by the various interest groups were invaluable. I would not in any way wish to detract from the contributions made by many Members of the majority and the minority to the bill as it now comes before the Senate. We should certainly commend all the members of the Finance Committee for their diligence:

Russell B. Long (La.), Clinton P. Anderson (N.M.), Albert Gore (Tenn.), Herman Talmadge (Ga.), Eugene McCarthy (Minn.), Vance Hartke (Ind.) J. W. Fulbright, (Ark.), Abraham A. Ribicoff (Conn.), Fred R. Harris (Okla.), Harry F. Byrd, Jr. (Va.)

John J. Williams (Del.), Wallace F. Bennett (Utah), Carl T. Curtis (Nebr.), Jack R. Miller (Iowa), Len R. Jordan (Idaho), Paul J. Fannin (Ariz.), Clifford P. Hansen (Wyo.).

Our thanks also goes to the members of the staff, who carried an unbelievable load and who, when the committee finished, always had the additional load placed on them of translating into language we could understand, what the committee had done.

So we extend our gratitude to the various members of the staff, headed by Larry Woodworth, who made this bill possible.

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

Mr. PERCY. Mr. President, I yield to the Senator from Kansas, who was so helpful to me in the work I was trying to do and who furthered our cause by his intelligent and dedicated effort.

Mr. DOLE. Mr. President, I know the hour is late, and every Senator is anxious to go. I want, however, to commend the Senator from Illinois (Mr. PERCY) for his work, not only on the personal exemption provision, but also on the so-called super-tax on drilling costs in connection with the exploration for oil and gas.

I have discussed this issue earlier with the chairman of the committee, the Senator from Louisiana, and he feels we have accomplished substantially what we intended. That is, that a tax will not be paid on exploration expenditures. It was not an effort to give the oil and gas industry preferential treatment, but only to make certain that they would not have a tax on costs of drilling. I am thankful for the helpful efforts of the Senator from Illinois, as is the oil and gas industry.

Mr. President, at the time the Senate voted on the Tax Reform Act of 1969, I found it necessary to vote against the bill.

The original purpose of this legislation was to remove the inequities in our tax structure without contributing to the inflationary spiral of our economy. The Senate Finance Committee substantially accomplished this objective. However, after the Senate completed its deliberation, the $6 billion surplus recommended by the committee for fiscal 1970 was changed to a projected deficit of $10.650 billion increasing to $12 billion by 1971.

Such a deficit would only have served to increase the inflationary pressures on the economy. Last week some of my colleagues were complaining about inflation and blamed the President for failing to bring it under control, yet only the week before they had voted for a tax bill that would have greatly contributed to further inflation.

With living costs rising at a rate comparable to 1951, another war year, it is indeed time for the Congress to take some of the "unpleasant medicine" advocated by the President to bring inflation under control.

Mr. President, I am pleased that the House-Senate conferees demonstrated the kind of courage needed to make the hard decisions necessary to turn the Senate-passed Christmas tree version of tax legislation into a reasonable effort at tax reform.

The conference agreement, like the approach Senator PERCY and I proposed, provides for a modest first year adjustment in the personal exemption with gradual step increases until the exemption reaches $750 in 1973. By the gradual approach, the revenue loss next year, a critical year for the inflationary battle, would be minimized. I am pleased that the senior Senator from Tennessee now supports this Percy-Dole amendment.

However, Mr. President, in the end, it is the President of the United States who must make the decision whether the tax-reform bill is acceptable. That decision must be based on his assessment and that of his economic advisers as to the effect the tax bill will have on our economy.

We await that decision with hope and anticipation.

REPEAL OF THE EMERGENCY DETENTION ACT OF 1950

Mr. MANSFIELD. Mr. President, it gives me a great deal of personal pleasure at this time to yield to the distinguished Senator from Hawaii (Mr. INOUYE) so that he may call up a bill in which we all have an interest and which all of us would like to see passed.

Mr. INOUYE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 625, S. 1782.

The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (S. 1872) to repeal the Emergency Detention Act of 1950—title II of the Internal Security Act of 1950.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause and insert:

That clauses 14 and 15 of section 101 and all of sections 102 through 116, inclusive, of title II of the Internal Security Act of 1950—title 50, U.S.C., clauses 14 and 15 of section 811, and section 812 through 826, inclusive—are hereby repealed.

Mr. INOUYE. Mr. President, early this year, I introduced, with 25 other Senators, S. 1872, a bill to repeal the emergency detention provision of the Internal Security Act of 1950. Since this bill's introduction, I have received, as I am certain my colleagues have, many resolutions, petitions, and letters urging this law's speedy repeal. I am, therefore, most pleased that the Senate Judiciary Committee has now favorably reported this legislation and I hope the Senate will speedily pass my bill.

Title II of the Internal Security Act gives the President the power to proclaim an "internal security emergency" in the event of any of the following: First, invasion of the territory of the United States or its possessions; second, declaration of war by Congress; and third, insurrection within the United States in aid of a foreign enemy. Following the declaration of an internal security emergency, title II gives the President or his agent the power to detain persons "if there is reasonable ground to believe that such a person will engage in or probably will with others engage in acts of espionage or sabotage." Following the person's arrest, title II details the procedures for the continued detention of a person. Generally, this course of action is at odds with normal judicial procedure and in fact the procedures detailed in the act would, I believe, have the effect of changing the presumption of innocence to a presumption of guilt for the accused.

As you may remember, the Internal Security Act of 1950 became law over President Truman's veto. In referring to the great majority of the provisions of this act, President Truman declared that they "would strike blows at our own liberties." Title II, I believe, violates a number of our established freedoms and constitutes a threat to our constitutional rights.

I introduced this measure when I became aware of the widespread rumors circulated throughout our Nation that the Federal Government was readying concentration camps to be filled with those who hold unpopular views and beliefs. These rumors are widely circulated and are believed in many urban ghettos as well as by those dissidents who are at odds with many of the policies of the United States. Fear of internment, I believe, lurks for many of those who are by birth or choice not "in tune" or "in line" with the rest of the country. There is a current mood of tension among some citizens in our land which does not permit these rumors of concentration camps to be laid to rest. These feelings of malaise and discontent have deeply permeated our society and have created a climate whereby such rumors fall on receptive ears. For some, additional credence was given to the possible use of concentration camps by a House Un-American Activities report of May 1968, which contained a recommendation for the possible use of these detention camps for certain black nationalists and Communists.

I believe that the emergency provision of the Internal Security Act of 1950 stands as a barrier to trust between some of our citizens and the Government. As President Truman stated in his veto message:

It is not enough to say that this probably would not be done. The mere fact that it could be done shows clearly how the bill would open a Pandora's box of opportunities for official condemnation of organizations and individuals for perfect honest opinions.

Many would respond to these rumors of concentration camps with the refrain "this could not happen in America." However, in times of stress and crisis, American justice has not always withstood these pressures. I am naturally reminded that during World War II, 109,650 Americans of Japanese ancestry were arrested, their property confiscated and were detained in various "relocation camps" for most of World War II.

For these reasons I believe the Senate should pass S. 1872, my legislation to repeal the emergency detention provision of the Internal Security Act of 1950. The speedy repeal of this statute would forever put to rest the rumors and allay the fears of some of our citizens. As the Justice Department stated in announcing its support for S. 1872, the gains to be made from repeal of title II will outweigh "any potential advantage which the act may provide in a time of internal security emergency."

Some have defended the existence of this statute by stating that no President would use this provision. However, if it is not to be used, it should be repealed. It is the responsibilty of the Congress to repeal this statute and I believe we should do so immediately to forever allay the fears and suspicions of many, and to remove this threat to our liberty and freedoms.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on the engrossment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. MANSFIELD. Mr. President, I am delighted that this long overdue bill has passed the Senate unanimously.

PRINTING AS SENATE DOCUMENT DEMOCRATIC POLICY COMMITTEE'S REPORT OF ACCOMPLISHMENTS IN FIRST SESSION, 91ST CONGRESS.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate Democratic policy committee be permitted to have printed as a Senate document its report of the accomplishments of the first session of the 91st Congress, together with a statement.

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

TAX REFORM ACT OF 1969—CONFERENCE REPORT

The Senate resumed the consideration of 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. 13270) to reform the income tax laws.

Mr. LONG. Mr. President, reference has been made to the fine work and efforts of the staff of the Joint Committee on Internal Revenue Taxation, headed over by our very able chief of staff, Larry Woodworth, and also by the fine work done by the staff of the Senate Committee on Finance, in connection with this measure.

We are also cognizant of the fine work done by the staff of the House Ways and Means Committee with regard to this revenue bill.

Without the fine technical help of these able staff members, it would not have been possible to put together this bill and to have achieved the purposes of the conferees, nor would it have been possible to have had anything like the advice needed to pass a revenue measure of this type.

I heard the statement made by someone on one occasion that, in his judgment, there are probably no more than 100 people in this country capable of writing a measure of this type; and we had about 75 people working on the bill. I have discussed this matter with people who are knowledgeable in this field and they agreed with that proportion. Some of those technicians were borrowed from the Treasury Department. I wish to thank them for the help they gave us in connection with the measure. Assistant Secretary Cohen and his able staff gave us all the help of which they were capable.

Some of the pamphlets that have been prepared have been enormously helpful. I think no one could really understand this bill and how it was structured if he did not have available to him a fine pamphlet prepared by the joint committee, with the assistance of the committee staff to which I have referred, showing the impact of that bill on groups and on the Government, and showing how it affected various groups and various interests as it passed through the various stages of its proceedings.

I ask unanimous consent that there be printed in the RECORD an analysis of the bill as well as an analysis of the basic differences between the Senate- and House-passed bills as it went to conference, and the results.

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

TABLE 1.—BALANCING OF TAX REFORM AND TAX RELIEF UNDER H.R. 13270—CALENDAR YEAR TAX LIABILITY

[In millions of dollars]

	1970	1971	1972	1974	Long run
A. AS PASSED BY THE HOUSE OF REPRESENTATIVES (AUG. 7, 1969)					
Tax reform program under House bill [1]	+1,665	+2,080	+2,215	+2,650	+3,605
Repeal of investment credit	+2,500	+3,000	+3,000	+3,100	+3,300
Tax reform and repeal of investment credit [1]	+4,165	+5,080	+5,215	+5,750	−6,905
Income tax relief under House bill	− [1] 1,912	− [1] 6,568	−9,273	−9,273	−9,273
Balance between reform (+) and relief (−) under House bill [1]	+2,253	−1,488	−4,058	−3,523	−2,368
Extension of surcharge and excises	+4,270	+800	+800		
Total	+6,523	−688	−3,258	−3,523	−2,368
B. AS PASSED BY THE SENATE (DEC. 11, 1969)					
Tax form program under Senate bill	+915	+1,135	−455	+65	+895
Amendment of investment credit	+1,710	+2,200	+2,200	+2,300	+2,510
Tax reform and amendment of investment credit	+2,625	+3,335	+1,745	+2,365	+3,405
Income tax relief under Senate bill	−3,963	−8,883	−8,883	−8,883	−8,883
Balance between reform (+) and relief (−) under Senate bill [1]	−1,338	−5,548	−7,138	−6,518	−5,478
Extension of surcharge and excises	+4,720	+800	+800		
Total	+2,932	−4,748	−6,338	−6,518	−5,478
C. AS APPROVED BY THE CONFERENCE (DEC. 19, 1969)					
Tax reform program under conference bill	+1,150	+1,430	+1,660	+2,195	+3,320
Repeal of investment credit	+2,500	+2,990	+2,990	+3,090	+3,300
Tax reform and repeal of investment credit	+3,650	+4,420	+4,650	+5,285	+6,620
Income tax relief under conference bill	−1,441	−4,927	−7,269	−9,134	−9,134
Balance between reform (+) and relief (−) under conference bil [1]	+2,209	−507	−2,619	−3,849	−2,514
Extension of surcharge and excises	+4,270	+800	+800		
Total	+6,479	+293	−1,819	−3,849	−2,514

[1] Revised.

TABLE 2.—BALANCING OF TAX REFORM AND TAX RELIEF UNDER H.R. 13270—CALENDAR YEAR TAX LIABILITY

[In millions of dollars]

	1970	1971	1972	1974	Long run
A. AS PASSED BY THE HOUSE OF REPRESENTATIVES (AUG. 7, 1969)					
Tax reform program under House bill [1]	+1,665	+2,080	+2,215	+2,650	+3,605
Repeal of investment credit	+2,500	+3,000	+3,000	+3,100	+3,300
Tax reform and repeal of investment credit [1]	+4,165	+5,080	+5,215	+5,740	+6,905
Income tax relief:					
Low-income allowance	−625	−625	−625	−625	−625
Removal of phaseout on low income allowance		−2,027	−2,027	−2,027	−2,027
Increase in standard deduction [2]	[1] −1,087	[1] −867	−1,373	−1,373	−1,373
Rate reduction		−2,249	−4,498	−4,498	−4,498
Maximum 50-percent rate on earned income	−200	−150	−100	−100	−100
Intermediate tax treatment for certain single persons, etc		−650	−650	−650	−650
Total tax relief under House bill	[1] −1,912	[1] −6,568	−9,273	−9,273	−9,273
Balance between reform (+) and relief (−) under House bill [1]	+2,253	−1,488	−4,058	−3,523	−2,368
Extension of surcharge and excises	+4,270	+800	+800		
Total	+6,523	−688	−3,258	−3,523	−2,368
B. AS PASSED BY THE SENATE (DEC. 11, 1969)					
Tax reform program under Senate bill	+915	+1,135	−455	+65	+895
Amendment of investment credit	+1,710	+2,200	+2,200	+2,300	+2,510
Tax reform and amendment of investment credit	+2,625	+3,335	+1,745	+2,365	+3,405
Income tax relief:					
Low-income allowance	−550	−550	−550	−550	−5,550
Change in phaseout on low income allowance	−146	−1,507	−1,507	−1,507	−1,507
Income tax relief—Continued					
Increase in exemption	−3,267	−6,406	−6,406	−6,406	−6,406
Tax treatment of single persons		−420	−420	−420	−420
Total tax relief under Senate bill	−3,963	−8,883	−8,883	−8,883	−8,883
Balance between reform (+) and relief (−) under Senate bill	−1,338	−5,548	−7,138	−6,518	−5,478
Extension of surcharge and excises	+4,270	+800	+800		
Total	+2,932	−4,748	−6,338	−6,518	−5,478
C. AS APPROVED BY THE CONFERENCE (DEC. 19, 1969)					
Tax reform under conference bill	+1,150	+1,430	+1,660	+2,195	+3,320
Repeal of investment credit	+2,500	+2,990	+2,990	+3,090	+3,300
Tax reform and repeal of investment credit	+3,650	+4,420	+4,650	+5,285	+6,620
Income tax relief:					
Low-income allowance	−625	−1,592	−2,057	−2,057	−2,057
Increase in standard deduction [3]		−1,207	−1,355	−1,642	−1,642
Increase in exemption	−816	−1,633	−3,267	−4,845	−4,845
Maximum 50-percent rate on earned income		−75	−170	−170	−170
Tax treatment of single persons		−420	−420	−420	−420
Total tax relief under conference bill	−1,441	−4,927	−7,269	−9,134	−9,134
Balance between reform (+) and relief (−) under conference bill	+2,209	−507	−2,619	−3,849	−2,514
Extension of surcharge and excises	+4,270	+800	+800		
Total	+6,479	+293	−1,819	−3,849	−2,514

[1] Revised.

[2] 1970; 13 percent, $1,400 ceiling; 1971: 14 percent, $1,700 ceiling; 1972: 15 percent $2,000 ceiling.

[3] 1971: 13 percent, $1,500 ceiling; 1972: 14 percent, $2,000 ceiling; 1973: 15 percent, $2,000 ceiling.

TABLE 3.— BALANCING OF TAX REFORM AND TAX RELIEF UN DER H.R. 13270—CALENDAR YEAR TAX LIABILITY—Continued
[n millions of dollars]

Adjusted gross income class	Tax under present law [1] (millions)	Increase (+) decrease (—) from reform and relief provisions: Amount (millions)	Increase (+) decrease (—) from reform and relief provisions: Percentage
A. AS PASSED BY THE HOUSE OF REPRESENTATIVES (AUG. 7, 1969)			
0 to $3,000	$1,169	—$775	—66.3
$3,000 to $5,000	3,320	—1,049	—31.6
$5,000 to $7,000	5,591	—996	—17.8
$7,000 to $10,000	11,792	—1,349	—11.4
$10,000 to $15,000	18,494	—1,932	—10.4
$15,000 to $20,000	9,184	—775	—8.4
$20,000 to $50,000	13,988	—976	—7.0
$50,000 to $100,000	6,659	—365	—5.5
$100,000 and over	7,686	+324	+4.2
Total	77,884	—7,893	—10.1
B. AS PASSED BY THE SENATE (DEC. 11, 1969)			
0 to $3,000	$1,169	—$925	—79.1
$3,000 to $5,000	3,320	—1,355	—40.8
$5,000 to $7,000	5,591	—1,581	—28.3
$7,000 to $10,000	11,792	—2,380	—20.2
$10,000 to $15,000	18,494	—2,460	—13.3
$15,000 to $20,000	9,184	—1,092	—11.9
$20,000 to $50,000	13,988	—851	—6.1
$50,000 to $100,000	6,659	—108	—1.6
$100,000 and over	7,686	+625	+8.1
Total	77,884	—10,128	—13.0
C. AS APPROVED BY THE CONFERENCE (DEC. 19, 1969)			
0 to $3,000	$1,169	—$816	—69.8
$3,000 to $5,000	3,320	—1,101	—33.2
$5,000 to $7,000	5,591	—1,112	—19.9
$7,000 to $10,000	11,792	—1,859	—15.8
$10,000 to $15,000	18,494	—2,327	—12.6
$15,000 to $20,000	9,184	—791	—8.6
$20,000 to $50,000	13,988	—715	—5.1
$50,000 to $100,000	6,659	—128	—1.9
$100,000 and over	7,686	+557	+7.2
Total	77,884	—8,294	—10.6

[1] Exclusive of tax surcharge.

Note: Details do not necessarily add to totals because of rounding.

TABLE 4.—TAX RELIEF PROVISIONS UNDER H.R. 13270 AFFECTING INDIVIDUALS AND TOTAL FOR ALL REFORM AND RELIEF PROVISIONS AFFECTING INDIVIDUALS, WHEN FULLY EFFECTIVE BY ADJUSTED GROSS INCOME CLASS, 1969 LEVELS

A. AS PASSED BY THE HOUSE OF REPRESENTATIVES (AUG, 7, 1969)

Adjusted gross income class	Reform provisions	Relief provisions: Low income allowance	Relief provisions: Elimination of phaseout	Relief provisions: 15-percent $2,000 standard deduction	Relief provisions: General rate reduction (millions)	Relief provisions: Maximum tax on earned income	Relief provisions: Intermediate tax treatment	Relief provisions: Total relief provisions	Total, all provisions
0 to $3,000	+$16	—$552	—$202		—$27		—$10	—$791	—$775
$3,000 to $5,000	—3	—72	—788		—141		—45	—1,046	—1,049
$5,000 to $7,000	+3	—1	—594		—329		—75	—999	—996
$7,000 to $10,000	+7		—335	—$228	—663		—130	—1,356	—1,349
$10,000 to $15,000	+26		—83	—789	—975		—111	—1,958	—1,932
$15,000 to $20,000	+23		—16	—231	—496		—55	—798	—775
$20,000 to $50,000	+90		—8	—117	—806		—135	—1,066	—976
$50,000 to $100,000	+137		—1	—7	—420	—$20	—54	—502	—365
$100,000 and over	+1,081			—1	—641	—80	— 35	—757	+324
Total	+1,380	—625	—2,027	—1,373	—4,498	—100	—650	—9,273	—7,893

B. AS PASSED BY THE SENATE (DEC. 11, 1969)

Adjusted gross income class	Reform provisions	Relief provisions: Low income allowance	Relief provisions: $800 exemption (millions)	Relief provisions: Tax treatment of single persons	Relief provisions: Total relief provisions	Total, all provisions
0 to $3,000	—$69	—$682	—$174		—$856	—$925
$3,000 to $5,000	—159	—719	—477		—1,196	—1,355
$5,000 to $7,000	—313	—458	—803	—$7	—1,268	—1,581
$7,000 to $10,000	—492	—198	—1,645	—45	—1,888	—2,380
$10,000 to $15,000	—517		—1,875	—68	—1,943	—2,460
$15,000 to $20,000	—391		—639	—62	—701	—1,092
$20,000 to $50,000	—57		—615	—179	—794	—851
$50,000 to $100,000	+71		—139	—40	—179	—108
$100,000 and over	+682		—40	—17	—57	+625
Total	—1,245	—2,057	—6,406	—420	—8,883	—10,128

C. AS APPROVED BY THE CONFERENCE (DEC. 19, 1969)

Adjusted gross income class	Reform provisions	Relief provisions: Low income allowance	Relief provisions: $750 exemption (millions)	Relief provisions: 15-percent $2,000 standard deduction	Relief provisions: Maximum tax on earned income	Relief provisions: Tax treatment of single persons	Relief provisions: Total relief provisions	Total, all provisions
0 to $3,000	+$6	—$682	—$140				—$822	—$816
$3,000 to $5,000	—6	—7,9	—366	—$10			—1,095	—1,101
$5,000 to $7,000	—4	—458	—612	—31		—$7	—1,108	—1,112
$7,000 to $10,000	—5	—198	—1,244	—366		—45	—1,853	—1,858
$10,000 to $15,000	+6		—1,407	—858		—68	—2,333	—2,327
$15,000 to $20,000	—7		—480	—242		—62	—784	—791
$20,000 to $50,000	+56		—462	—125	—$5	—179	—771	—715
$50,000 to $100,000	+54		—104	—8	—30	—40	—182	—128
$100,000 and over	+740		—30	—1	—135	—17	—183	+557
Total	+840	—2,057	—4,845	—1,642	—170	—420	—9,134	—8,294

Note: Details do not necessarily add to totals because of rounding.

TABLE 4A.—INDIVIDUAL INCOME TAX RELIEF PROVISIONS IN H.R. 13270, CALENDAR YEARS 1970–73

A. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Provision	1970	1971	1972	1973
Minimum standard deduction	[1] $1,100–1:2	$1,100	$1,100	
Percentage standard deduction	13 percent—$1,400	14 percent—$1,700	15 percent—$2,000	
Rate reduction [2]		⅛ of reduction	Full reduction	
Maximum tax rate on earned income [3]	50 percent	50 percent	50 percent	
Intermediate tax treatment for certain single persons, etc.[4]		½ split income benefit	½ split income benefit	

B. AS PASSED BY THE SENATE

Minimum standard deduction	[5] $1,000–1:4	$1,000	$1,000	
Personal exemption	$700	$800	$800	
Tax treatment of single persons		Tax no greater than 120 percent of joint return tax with same taxable income.	Tax greater than 120 percent of joint return tax with same taxable income.	

C. AS APPROVED BY THE CONFERENCE

Minimum standard deduction	[1] $1,100–1:2	[6] $1,050–1:15	$1,000	$1,000.
Percentage standard deduction		13 percent—$1,500	14 percent—$2000,	15 percent—$2,000.
Personal exemption	$650 from July 1	$650	$700	$750.
Maximum tax rate on earned income [3]		60 percent	50 percent	50 percent.
Tax treatment of single persons		Tax no greater than 120 percent of joint return tax with same taxable income.	Tax no greater than 120 percent of joint return tax with same taxable income.	Tax no greater than 120 percent of joint return tax with same taxable income.

[1] This low-income allowance, or minimum standard deduction, is "phased out" by reducing the additional allowance (difference between the 1969 minimum standard deduction and $1,100) by $1 for every $2 of adjusted gross income in excess of the 1970 nontaxable level.

[2] A reduction of at least 1 percentage point in each bracket with a 5 percent or more reduction in tax in all brackets, taking place in 2 equal stages in 1971 and 1972.

[3] Under the House bill the specified maximum marginal rate is applicable to earned income; under the conference bill the specified maximum marginal rate is applicable to earned income less preference income over $30,000 in the current year or the average tax preferences in excess of $30,000 for the current year and the prior 4 years, whichever is greater.

[4] Widows and widowers, regardless of age, and single persons age 35 and over use the head-of-household rate schedule, i.e., tax liability halfway between that of the regular rate schedule used by single persons and the joint return schedule; surviving spouses with dependent children under age 19 or attending school would have the joint return privilege.

[5] This entire minimum standard deduction ($1,000) is "phased out" by reducing it by $1 for every $4 of adjusted gross income above the nontaxable level.

[6] This minimum standard deduction is "phased out" by reducing the additional allowance (difference between the 1969 minimum standard deduction and $1,050) by $1 for every $15 of adjusted gross income in excess of the 1971 nontaxable level.

TABLE 5.—TAX REFORM PROVISIONS UNDER H.R. 13270 AFFECTING INDIVIDUALS, FULL-YEAR EFFECT—BY ADJUSTED GROSS INCOME CLASS

A. AS PASSED BY THE HOUSE OF REPRESENTATIVES (AUG. 7, 1969)

Adjusted gross income class	Eliminate alternative tax rate on long-term gains [1]	6- to 12-month gains included at 100 percent [1]	Capital loss limitation	Pension plan provision	Life estates provision	Averaging including capital gains and 120 percent	Deferred compensation	Charitable deductions	Interest deduction	Reduced percentage depletion	Accumulation trusts	Moving expenses	Farm losses	Real estate	Tax-free dividends	Limit on tax preferences	Allocation	Total
							(millions)											
0 to $3,000		+$1	+$5	(2)		(2)	(2)			+$1	(2)	−$1		(2)	(2)	+$10	(2)	+$16
$3,000 to $5,000		+2	+3	+$1		(2)	(2)			+1	(2)	−11		(2)	(2)	+1	(2)	−3
$5,000 to $7,000		+2	+5	+2		(2)	(2)			+2	+$1	−13		(2)	+$1	+3	(2)	+3
$7,000 to $10,000		+5	+9	+3		(2)	(2)			+2	+1	−23		+$5	+2	+3	(2)	+7
$10,000 to $15,000		+10	+15	+9		−$5	(2)			+5	+3	−29		+10	+3	+3	+$2	+26
$15,000 to $20,000		+10	+8	+6		−30	(2)			+5	+3	−10		+10	+3	+15	+3	+23
$20,000 to $50,000	+$1	+35	+16	+17	(2)	−110	(2)			+19	+16	−11		+45	+17	+10	+35	+90
$50,000 to $100,000	+11	+30	+4	+10	+$5	−105	+$5			+13	+17	−2	+$5	+50	+19	+10	+65	+137
$100,000 and over	+348	+55	(2)	+22	+5	−50	+20	+$20	+$20	+22	+29	(2)	+20	+140	+35	+30	+365	+1,081
Total	+360	+150	+65	+70	+10	−300	+25	+20	+20	+70	+70	−100	+25	+260	+80	+85	+470	+1,380

B. AS PASSED BY THE SENATE (DEC. 11, 1969)

Adjusted gross income class	Change alternative tax on long-term gains [1]	Capitol loss limitation	Life estates provision	Averaging at 120 percent	Charitable deductions	Reduced per centage depletion	Accumulation trusts	Moving expenses	Foreign income	Farm losses	Real estate	Tax free dividends	Tax on preference income	Aged medical expenses	Transportation for disabled	Higher education expenses	Citrus grove costs	Children's exemption	Total
								(millions)											
0 to $3,000		+$5		(2)		(2)	(2)	−$1			(2)	(2)	+$2	−$2	−$1	−$70		−$2	−$69
$3,000 to $5,000		+3		(2)		+$1	+$1	−12			(2)	(2)	(2)	−6	−8	−130		−8	−159
$5,000 to $7,000		+5		(2)		+1	+1	−14	(2)		(2)	+$1	(2)	−13	−18	−260	(2)	−16	−313
$7,000 to $10,000		+9		(2)		+1	+1	−26	+$1		+$5	+2	(2)	−18	−33	−410	(2)	−24	−492
$10,000 to $15,000		+15		−$5		+2	+5	−32	+3		+10	+3	(2)	−26	−20	−455	(2)	−17	−517
$15,000 to $20,000		+8		−20		+2	+6	−11	+10		+10	+3	(2)	−15	−5	−375	(2)	−4	−391
$20,000 to $50,000	+$1	+16	(2)	−45		+8	+30	−12	+10		+40	+17	+48	−65	−4	−100	+$2	−3	−57
$50,000 to $100,000	+7	+4	+$5	−30		+5	+32	−2	+1	+$5	+45	+19	+28	−49	−1		+3	−1	+71
$100,000 and over	+242	(2)	+5	−10	+$20	+10	+54	(2)	(2)	+20	+125	+35	+207	−31	(2)		+5	(2)	+682
Total	+250	+65	+10	−110	+20	+30	+130	−110	+25	+25	+235	+80	+285	−225	−90	−1,800	+10	−75	−1,245

Footnote at end of table.

TABLE 5.—TAX REFORM PROVISIONS UNDER H.R. 13270 AFFECTING INDIVIDUALS, FULL-YEAR EFFECT—BY ADJUSTED GROSS INCOME CLASS—Continued

C. AS APPROVED BY THE CONFERENCE (DEC. 19, 1969)

Adjusted gross income class	Change alternative tax on long-term gains [1]	Capital loss limitation	Pension plan provision	Life estates provision	Averaging including capital gains and 120 percent	Charitable deductions	Interest deduction	Reduced percentage depletion (millions)	Accumulation trusts (millions)	Moving expenses (millions)	Farm losses	Real estate	Tax free dividends	Tax on preference income	Citrus grove costs	Total
0 to $3,000		+$5	(2)		(2)			(2)	(2)	−$1		(2)	(2)	+$2		+$6
$3,000 to $5,000		+3	+$1		(2)			+$1	+$1	−12		(2)	(2)	(2)		−6
$5,000 to $7,000		+5	+2		(2)			+1	+1	−14		(2)	+$1	(2)	(2)	−4
$7,000 to $10,000		+9	+3		(2)			+1	+1	−26		+$5	+2	(2)	(2)	−5
$10,000 to $15,000		+15	+8		−$5			+3	+4	−32		+10	+3	(2)	(2)	+6
$15,000 to $20,000		+8	+5		−30			+3	+5	−11		+10	+3	(2)	(2)	−7
$20,000 to $50,000	+$1	+16	+14	(2)	−110			+11	+27	−12		+42	+17	+48	+$2	+56
$50,000 to $100,000	+7	+4	+8	+$5	−105			+7	+28	−2	+$5	+47	+19	+28	+3	+54
$100,000 and over	+267	(2)	+19	+5	−50	+$20	+$20	+13	+48	(2)	+20	+131	+35	+207	+5	+740
Total	+275	+65	+60	+10	−300	+20	+20	+40	+115	−110	+25	+245	+80	+285	+10	+840

[1] Assumes ½ of effect as compared with no change in realization. [2] Less than $500,000.

TABLE 6.—REVENUE ESTIMATES, TAX REFORM UNDER H.R. 13270, CALENDAR YEAR LIABILITY [1]

[In millions of dollars]

Provision	As passed by the House of Representatives					As passed by the Senate					As approved by the conference				
	1970	1971	1972	1974	Long run	1970	1971	1972	1974	Long run	1970	1971	1972	1974	Long run
Corporate capital gains	175	175	175	175	175	140	175	175	175	175	105	175	175	175	175
Foundations	65	70	75	85	100	20	25	25	25	30	35	35	40	45	55
Unrelated business income	5	5	5	5	20	5	5	5	5	20	5	5	5	5	20
Contributions	5	10	20	20	20	5	10	20	20	20	5	10	20	20	20
Farm losses	(2)	5	10	10	25	25	25	25	25	25	(2)	5	10	10	25
Moving expenses	−100	−100	−100	−100	−100	−110	−110	−110	−110	−110	−110	−110	−110	−110	−110
Railroad amortization [3]	(2)	−5	−[4]15	−[4]60	−[4]85	−125	−115	−160	−185	−105	−105	−95	−140	−165	−85
Amortization of pollution facilities [3]	−40	−130	−230	−380	−400	−15	−40	−70	−115	−120	−15	−40	−70	−115	−120
Corporate mergers, etc.	10	20	25	40	70	(2)	(2)	(2)	(2)	(2)	5	10	15	25	40
Multiple corporations	[4]45	[4]75	[4]105	[4]175	235	30	70	120	235	235	25	60	100	195	235
Accumulation trusts	50	70	70	70	70	5	10	35	60	130	10	25	35	55	115
Income averaging	−300	−300	−300	−300	−300	−110	−110	−110	−110	−110	−300	−300	−300	−300	−300
Deferred compensation:															
Restricted stock	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Other deferred compensation	(2)	(2)	5	10	25										
Stock dividends	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Subchapter S	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Tax-free dividends				80	80				80	80				80	80
Financial institutions:															
Commercial banks:															
Reserves	250	250	250	250	250	225	150	125	100	100	225	150	125	100	250
Capital gains	50	50	50	50	50	(2)	5	5	10	50	5	10	15	25	50
Mutual thrift reserves:															
Savings and loan associations	10	25	35	60	125	10	20	30	40	40	20	35	45	60	85
Mutual savings banks	(2)	5	10	15	35	20	25	30	35	35	25	25	30	30	35
Tax-exempt interest	(2)	(2)	(2)	(2)	(2)										
Individual capital gains:															
Capital loss provisions	50	50	55	60	65	50	50	55	60	65	50	50	55	60	65
6-months–1 year holding period [6]	100	150	150	150	150										
Pension plans	(2)	5	10	25	70						(2)	5	10	20	60
Casualty loss	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Sale of papers	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Life estates	10	10	10	10	10	10	10	10	10	10	10	10	10	10	10
Franchises	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)	(2)
Alternative rate provision [6]	360	260	260	360	360	150	200	250	250	250	165	220	275	275	275
Natural resources:															
Production payment	100	110	125	150	200	100	110	125	150	200	110	110	125	150	200
Percentage depletion	400	400	400	400	400	150	150	150	150	150	235	235	235	235	235
Foreign depletion	25	10	(2)	(2)	(2)										
Foreign income:															
Loss carryover	35	35	35	35	35										
Restriction on mineral credits	30	30	30	30	30										
Reduced exclusion						25	25	25	25	25					
Individual interest deduction	20	20	20	20	20								20	20	20
Regulated utilities [3,5]	60	140	185	260	310	60	140	185	260	310	60	140	185	260	310
Cooperatives	(2)	(2)	(2)	(2)	(2)										
Limit on tax preferences	40	50	60	70	85										
Allocation	205	420	425	440	470										
Tax on preference income						630	635	645	670	680	590	595	600	625	635
Real estate:															
Used property [3,5]	15	40	65	150	250	15	35	55	125	210	15	35	55	130	220
New nonhousing [3,5]	(2)	60	170	435	960	(2)	60	170	435	960	(2)	60	170	435	960
Capital gain, recapture	5	15	25	50	125	(2)	5	10	20	50	(2)	10	15	30	80
Rehabilitation [3,5]	−15	−50	−100	−200	−330	−15	−50	−100	−200	−330	−15	−50	−100	−200	−330
Medical expenses for aged						−225	−225	−225	−225	−225					
Transportation deduction for disabled						−90	−90	−90	−90	−90					
Exemption for foster children						(2)	(2)	(2)	(2)	(2)					
Revision of children's support test						−75	−75	−75	−75	−75					
Capitalization of citrus grove expenses						5	10	10	10	10	5	10	10	10	10
Credit for education expense								−1,800	−1,800	−1,800					
Total tax reform	[4]1,665	[4]2,080	[4]2,215	[4]2,650	[4]3,605	915	1,135	−455	65	895	1,150	1,430	1,660	2,195	3,320
Plus investment credit	2,500	3,000	3,000	3,100	3,300	1,710	2,200	2,200	2,300	2,510	2,500	2,990	2,990	3,090	3,300
Total	[4]4,165	[4]5,080	[4]5,215	[4]5,750	[4]6,905	2,625	3,335	1,745	2,365	3,405	3,650	4,420	4,650	5,285	6,620

[1] Except as indicated these estimates are all at current levels, the time difference being solely to show the phasein.
[2] Less than $2,500,000.
[3] The figures in the "long run" columns are for 1979.
[4] Revised.
[5] Assumes growth.
[6] Assumes ½ of effect as compared with no change in realization.

Note: Calendar year 1969 estimates, not shown above, are as follows: under the House bill and the Conference bill repeal of the investment credit $900,000,000 and under the Senate bill amendment of the investment credit $370,000,000; under the House bill corporate capital gains $75,000,000, multiple corporations $20,000,000, accumulation trusts $20,000,000, and individual capital gains $175,000,000.

TABLE 7.—TAXABLE RETURNS UNDER PRESENT LAW AND NUMBER MADE NONTAXABLE BY RELIEF PROVISIONS OF H.R. 13270

[Number of returns in thousands]

A. AS PASSED BY THE HOUSE OF REPRESENTATIVES[1] (AUG. 7, 1969)

Adjusted gross income class	Returns taxable under present law	Returns made nontaxable by low-income allowance and 15 percent $2,000 standard deduction[2]	Returns remaining taxable—but benefiting from the relief provisions[2]
0 to $3,000	10,053	5,149	4,904
$3,000 to $5,000	9,562	405	9,157
$5,000 to $7,000	9,779	24	9,755
$7,000 to $10,000	13,815	8	13,807
$10,000 to $15,000	13,062	4	13,058
$15,000 to $20,000	3,852	2	3,850
$20,000 to $50,000	2,594	----------	2,594
$50,000 to $100,000	340	----------	340
$100,000 and over	95	----------	95
Total	63,152	5,592	57,560

B. AS PASSED BY THE SENATE[3] (DEC. 11, 1969)

Adjusted gross income class	Returns taxable under present law	Returns made nontaxable by low income allowance and $800 exemption	Returns remaining taxable—but benefiting from the relief provisions
0 to $3,000	10,053	6,111	3,942
$3,000 to $5,000	9,562	1,445	8,117
$5,000 to $7,000	9,779	570	9,209
$7,000 to $10,000	13,815	211	13,604
$10,000 to $15,000	13,062	36	13,026
$15,000 to $20,000	3,852	----------	3,852
$20,000 to $50,000	2,594	----------	2,594
$50,000 to $100,000	340	----------	340
$100,000 and over	95	----------	95
Total	63,152	8,373	54,977

C. AS APPROVED BY THE CONFERENCE[4] (DEC. 19, 1969)

Adjusted gross income class	Returns taxable under present law	Returns made nontaxable by low-income allowance, 15 percent $2,000 standard deduction and $750 exemption	Returns remaining taxable—but benefiting from the relief provisions
0 to $3,000	10,053	5,846	4,207
$3,000 to $5,000	9,562	1,131	8,431
$5,000 to $7,000	9,779	424	9,355
$7,000 to $10,000	13,815	172	13,643
$10,000 to $15,000	13,062	28	13,034
$15,000 to $20,000	3,852	2	3,850
$20,000 to $50,000	2,594	----------	2,594
$50,000 to $100,000	340	----------	340
$100,000 and over	95	----------	95
Total	63,152	7,603	55,549

[1] Provisions effective for tax year 1972 and thereafter.
[2] Revised.
[3] Provisions effective for tax year 1971 and thereafter.
[4] Provisions effective for tax year 1973 and thereafter.

TABLE 8.—TAX BURDEN ON THE SINGLE PERSON UNDER PRESENT LAW[1] AND UNDER H.R. 13270 AS PASSED BY THE HOUSE OF REPRESENTATIVES,[2] AS PASSED BY THE SENATE,[3] AND AS APPROVED BY THE CONFERENCE[4]

A. ASSUMING NONBUSINESS DEDUCTIONS OF 10 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income (wages and salaries)	Tax under present law	Single persons under 35 (other than widows and widowers): Tax under H.R. 13270	Tax decrease: Amount	Tax decrease: Percentage	Single persons 35 and over (and widows and widowers at any age): Tax under H.R. 13270	Tax decrease: Amount	Tax decrease: Percentage
$900	0	0	0	0	0	0	0
$1,700	$115	0	$115	100.0	0	$115	100.
$1,750	123	$7	116	94.3	$7	116	94.
$1,800	130	13	117	90.0	13	117	90.
$3,000	329	180	149	45.3	175	154	46.
$3,500	415	258	157	37.8	250	165	39.
$4,000	500	344	156	31.2	331	169	33.8
$5,000	671	524	147	21.9	501	170	25.3
$7,500	1,168	1,023	145	12.4	957	211	18.1
$10,000	1,742	1,507	235	13.5	1,399	343	19.7
$12,500	2,398	2,078	320	13.3	1,907	491	20.5
$15,000	3,154	2,806	348	11.0	2,532	622	19.7
$17,500	3,999	3,683	316	7.9	3,250	749	18.7
$20,000	4,918	4,650	268	5.4	4,042	876	17.8
$25,000	6,982	6,566	416	6.0	5,643	1,339	19.2

2. AS PASSED BY THE SENATE

Adjusted gross income (wages and salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease: Amount	Tax decrease: percentage
$900	0	0	0	
$1,700	$115	0	$115	100.0
$1,750	123	0	123	100.0
$1,800	130	0	130	100.0
$3,000	329	$177	152	46.2
$3,500	415	259	156	37.6
$4,000	500	348	152	30.4
$5,000	671	538	133	19.8
$7,500	1,168	1,047	121	10.4
$10,000	1,742	1,640	102	5.9
$12,500	2,398	2,212	186	7.8
$15,000	3,154	2,833	321	10.2
$17,500	3,999	3,505	494	12.4
$20,000	4,918	4,238	680	13.8
$25,000	6,982	5,876	1,106	15.8

Footnote at end of table.

TABLE 8—Continued

3. AS APPROVED BY THE CONFERENCE

Adjusted gross income (wages and salaries)	Tax under present law[1]	Tax under H.R. 13270	Tax decrease: Amount	Tax decrease: Percentage
$900	0	0	0	0
$1,700	$115	0	$115	100.0
$1,750	123	0	123	100.0
$1,800	130	$7	123	94.6
$3,000	329	185	144	43.8
$3,500	415	267	147	35.5
$4,000	500	357	143	28.5
$5,000	671	547	124	18.4
$7,500	1,168	1,031	136	11.7
$10,000	1,742	1,530	212	12.2
$12,500	2,398	2,059	339	14.2
$15,000	3,154	2,702	452	14.3
$17,500	3,999	3,442	556	13.9
$20,000	4,918	4,255	663	13.5
$25,000	6,982	5,895	1,087	15.6

B. ASSUMING NONBUSINESS DEDUCTIONS OF 18 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income (wages and salaries)	Tax under present law	Single persons under 35 (other than widows and widowers): Under H.R. 13270	Tax decrease: Amount	Tax decrease: Percentage	Single persons 35 and over (and widows and widowers at any age): Under H.R. 13270	Tax decrease: Amount	Tax decrease: Percentage
$900	0	0	0	0	0	0	0
$1,700	$114	0	$114	100.0	0	$114	100.0
$1,750	120	$7	113	94.2	$7	113	94.2
$1,800	126	13	113	89.7	13	113	89.7
$3,000	286	180	106	37.1	175	111	38.8
$3,500	361	258	103	28.5	250	111	30.7
$4,000	439	344	95	21.6	331	108	24.6
$5,000	595	524	71	11.9	501	94	15.8
$7,500	1,031	976	55	5.3	915	116	11.3
$10,000	1,530	1,438	92	6.0	1,336	194	12.7
$12,500	2,092	1,976	116	5.5	1,816	276	13.2
$15,000	2,734	2,580	154	5.6	2,342	392	14.3
$17,500	2,460	3,265	195	5.6	2,910	550	15.9
$20,000	4,252	4,016	236	5.6	3,520	732	17.2
$25,000	6,025	5,688	337	5.6	4,905	1,120	18.6

B. ASSUMING NONBUSINESS DEDUCTIONS OF 18 PERCENT OF INCOME—Continued

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES—Continued

2. AS PASSED BY THE SENATE

Adjusted gross income (wagesand salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$900	0	0	0	0
$1,700	$114	0	$114	100.0
$1,750	120	0	120	100.0
$1,800	126	0	126	100.0
$3,000	286	$177	109	38.1
$3,500	361	259	102	28.3
$4,000	439	348	91	20.7
$5,000	595	538	57	9.6
$7,500	1,031	974	57	5.5
$10,000	1,530	1,446	84	5.5
$12,500	2,092	1,953	139	6.6
$15,000	2,734	2,495	239	8.7
$17,500	3,460	3,080	380	11.0
$20,000	4,252	3,706	546	12.8
$25,000	6,025	5,122	903	15.0

3. AS APPROVED BY THE CONFERENCE

Adjusted gross income (wages and salaries)	Tax under present law[1]	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$900	0	0	0	0
$1,700	$114	0	$114	100.0
$1,750	120	0	120	100.0
$1,800	126	$7	119	94.5
$3,000	286	185	101	35.4
$3,500	361	267	94	26.0
$4,000	439	357	82	18.6
$5,000	595	547	48	8.0
$7,500	1,031	984	47	4.6
$10,000	1,530	1,458	72	4.7
$12,500	2,092	1,965	127	6.1
$15,000	2,734	2,509	225	8.3
$17,500	3,460	3,094	366	10.6
$20,000	4,252	3,722	530	12.5
$25,000	6,025	5,140	885	14.7

[1] Exclusive of tax surcharge.
[2] Provisions effective for tax year 1972 and thereafter.
[3] Provisions effective for tax year 1971 and thereafter.
[4] Provisions effective for tax year 1973 and thereafter.

TABLE 9.—TAX BURDEN ON THE MARRIED COUPLE WITH NO DEPENDENTS UNDER PRESENT LAW[1] AND UNDER H.R. 13270 AS PASSED BY THE HOUSE OF REPRESENTATIVES,[2] AS PASSED BY THE SENATE,[3] AND AS APPROVED BY THE CONFERENCE[4]

A. ASSUMING NONBUSINESS DEDUCTIONS OF 10 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income (wages and salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$1,600	0	0	0	0
$2,300	$98	0	$98	100.0
$2,500	126	$26	100	79.4
$2,600	140	39	101	72.1
$3,000	200	91	109	54.5
$3,500	275	158	117	42.5
$4,000	354	228	126	35.6
$5,000	501	375	126	25.1
$7,500	915	792	123	13.4
$10,000	1,342	1,174	168	12.5
$12,500	1,831	1,599	232	12.7
$15,000	2,335	2,098	237	10.1
$17,500	2,898	2,669	229	7.9
$20,000	3,484	3,276	208	6.0
$25,000	4,796	4,530	266	5.5

2. AS PASSED BY THE SENATE

$1,600	0	0	0	0
$2,300	$98	0	$98	100.0
$2,500	126	0	126	100.0
$2,600	140	0	140	100.0
$3,000	200	$56	144	72.0
$3,500	275	126	149	54.2
$4,000	354	200	154	43.5
$5,000	501	354	147	29.3
$7,500	915	791	124	13.6
$10,000	1,342	1,266	76	5.7

TABLE 9—Continued

A. ASSUMING NONBUSINESS DEDUCTIONS OF 10 PERCENT OF INCOME—Continued

2. AS PASSED BY THE SENATE—Continued

Adjusted gross income (wages and salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$12,500	1,831	1,743	88	4.8
$15,000	2,335	2,238	97	4.2
$17,500	2,898	2,798	100	3.5
$20,000	3,484	3,372	112	3.2
$25,000	4,796	4,668	128	2.7

3. AS APPROVED BY THE CONFERENCE

$1,600	0	0	0	0
$2,300	$98	0	$98	100.0
$2,500	126	0	126	100.0
$2,600	140	$14	126	90.0
$3,000	200	70	130	65.0
$3,500	275	140	135	49.1
$4,000	354	215	139	39.3
$5,000	501	370	131	26.2
$7,500	915	786	128	14.0
$10,000	1,342	1,190	152	11.3
$12,500	1,831	1,628	203	11.1
$15,000	2,335	2,150	185	7.9
$17,500	2,898	2,760	138	4.8
$20,000	3,484	3,400	84	2.4
$25,000	4,796	4,700	96	2.0

B. ASSUMING NONBUSINESS DEDUCTIONS OF 18 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

$1,600	0	0	0	0
$2,300	$96	0	$96	100.0
$2,500	119	$26	93	78.2
$2,600	130	39	91	70.0
$3,000	179	91	88	49.2
$3,500	241	158	83	34.4
$4,000	303	228	75	24.8
$5,000	434	375	59	13.6
$7,500	801	751	50	6.2
$10,000	1,190	1,120	70	5.9
$12,500	1,611	1,521	90	5.6
$15,000	2,062	1,951	111	5.4
$17,500	2,548	2,405	143	5.6
$20,000	3,060	2,876	184	6.0
$25,000	4,184	3,951	233	5.6

2. AS PASSED BY THE SENATE

$1,600	0	0	0	0
$2,300	$96	0	$96	100.0
$2,500	119	0	119	100.0
$2,600	130	0	130	100.0
$3,000	179	$56	123	68.7
$3,500	241	126	115	47.7
$4,000	303	200	103	34.0
$5,000	434	354	80	18.4
$7,500	801	725	76	9.5
$10,000	1,190	1,114	76	6.4
$12,500	1,611	1,523	88	5.5
$15,000	2,062	1,974	88	4.3
$17,500	2,548	2,448	100	3.9
$20,000	3,060	2,960	100	3.3
$25,000	4,184	4,072	112	2.7

3. AS APPROVED BY THE CONFERENCE

$1,600	0	0	0	0
$2,300	$96	0	$96	100.0
$2,500	119	0	119	100.0
$2,600	130	$14	116	89.3
$3,000	179	70	109	60.9
$3,500	241	140	101	41.8
$4,000	303	215	88	29.0
$5,000	434	370	64	14.8
$7,500	801	744	57	7.1
$10,000	1,190	1,133	57	4.8
$12,500	1,611	1,545	66	4.1
$15,000	2,062	1,996	66	3.2
$17,500	2,548	2,473	75	2.9
$20 000	3,060	2,985	75	2.5
$25 000	4,184	4,100	84	2.0

[1] Exclusive of tax surcharge.
[2] Provisions effective for tax year 1972 and thereafter.
[3] Provisions effective for tax year 1971 and thereafter.
[4] Provisions effective for tax year 1973 and thereafter.

TABLE 10.—TAX BURDEN ON THE MARRIED COUPLE WITH 2 DEPENDENTS UNDER PRESENT LAW [1] AND UNDER H.R. 13270 AS PASSED BY THE HOUSE OF REPRESENTATIVES,[2] AS PASSED BY THE SENATE,[3] AND AS APPROVED BY THE CONFERENCE [4]

A. ASSUMING NONBUSINESS DEDUCTIONS OF 10 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income (wages and salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$3,000	0	0	0	0
$3,500	$70	0	$70	100.0
$4,000	140	$65	75	53.6
$4,200	170	91	79	46.5
$5,000	290	200	90	31.0
$7,500	687	576	111	16.2
$10,000	1,114	958	156	14.0
$12,500	1,567	1,347	220	14.0
$15,000	2,062	1,846	216	10.5
$17,500	2,598	2,393	205	7.9
$20,000	3,160	2,968	192	6.1
$25,000	4,412	4,170	242	5.5

2. AS PASSED BY THE SENATE

$3,000	0	0	0	0
$3,500	$70	0	$70	100.0
$4,000	140	0	140	100.0
$4,200	170	0	170	100.0
$5,000	290	$112	178	61.4
$7,500	687	501	186	27.1
$10,000	1,114	962	152	13.6
$12,500	1,567	1,391	176	11.2
$15 000	2,062	1,886	176	8.5
$17,500	2,598	2,398	200	7.7
$20,000	3,160	2,960	200	6.3
$25,000	4,412	4,184	228	5.2

3. AS APPROVED BY THE CONFERENCE

$3,000	0	0	0	0
$3,500	$70	0	$70	100.0
$4,000	140	0	140	100.0
$4,200	170	$28	142	83.5
$5,000	290	140	150	51.7
$7,500	687	514	173	2.52
$10,000	1,114	905	209	18.8
$12,500	1,567	1,309	258	16.5
$15,000	2,062	1,820	242	11.7
$17,500	2,598	2,385	213	8.2
$20,000	3,160	3,010	150	4.8
$25,000	4,412	4,240	172	3.9

TABLE 10.—TAX BURDEN ON THE MARRIED COUPLE WITH 2 DEPENDENTS UNDER PRESENT LAW [1] AND UNDER H.R. 13270 AS PASSED BY THE HOUSE OF REPRESENTATIVES,[2] AS PASSED BY THE SENATE,[3] AND AS APPROVED BY THE CONFERENCE [4]—Continued

B. ASSUMING NONBUSINESS DEDUCTIONS OF 18 PERCENT OF INCOME

1. AS PASSED BY THE HOUSE OF REPRESENTATIVES

Adjusted gross income (wages and salaries)	Tax under present law	Tax under H.R. 13270	Tax decrease	
			Amount	Percentage
$3,000	0	0	0	0
$3,500	$66	0	$66	100.0
$4,000	123	$65	58	47.2
$4,200	147	91	56	38.1
$5,000	245	200	45	18.4
$7,500	578	540	38	6.6
$10,000	962	904	58	6.0
$12,500	1,352	1,273	79	5.8
$15,000	1,798	1,699	99	5.5
$17,500	2,249	2,130	119	5.3
$20,000	2,760	2,600	160	5.8
$25,000	3,848	3,627	221	5.7

2. AS PASSED BY THE SENATE

$3,000	0	0	0	0
$3,500	$66	0	$66	100.0
$4,000	123	0	123	100.0
$4,200	147	0	147	100.0
$5,000	245	$112	133	54.0
$7,500	578	442	136	23.3
$10,000	962	810	152	15.5
$12,500	1,352	1,200	152	11.8
$15,000	1,798	1,622	176	9.2
$17,500	2,249	2,073	176	7.8
$20,000	2,760	2,560	200	7.8
$25,000	3,848	3,624	244	5.2

C. AS APPROVED BY THE CONFERENCE

$3,000	0	0	0	0
$3,500	$66	0	$66	100.0
$4,000	123	0	123	100.0
$4,200	147	$28	119	80.9
$5,000	245	140	105	42.9
$7,500	578	476	102	17.7
$10,000	962	848	114	11.9
$12,500	1,352	1,238	114	8.4
$15,000	1,798	1,666	132	7.3
$17,500	2,249	2,117	132	5.9
$20,000	2,760	2,610	150	5.4
$25,000	3,848	3,680	168	4.4

[1] Exclusive of tax surcharge.
[2] Provisions effective for tax year 1972 and thereafter.
[3] Provisions effective for tax year 1971 and thereafter.
[4] Provisions effective for tax year 1973 and thereafter.

TABLE 11.—EFFECT OF H.R. 13270 AS PASSED BY THE HOUSE OF REPRESENTATIVES, AS PASSED BY THE SENATE, AND AS APPROVED BY THE CONFERENCE, FISCAL YEAR RECEIPTS, 1970 AND 1971

[In billions]

As passed by the House of Representatives		
	Fiscal year	
Provision	1970	1971
Tax reform provisions (+):		
Corporation	+$0.4	+$1.0
Individual	+.3	+.6
Total, tax reform provisions	+.7	+1.6
Tax relief provisions (−): Individual	−.7	−3.6
Other provisions (+):		
Repeal of investment credit:		
Corporation	+.9	+1.9
Individual	+.4	+.6
Total repeal of investment credit	+1.3	+2.5
Extension of tax surcharge:		
Corporation	+.3	+.7
Individual	+1.7	+.4
Total, surcharge extension	+2.0	+1.1
Extension of excise taxes	+.5	+1.1
Total, other provisions	+3.8	+4.7
Total, all provisions	+3.89	+2.7

As passed by the Senate		
	Fiscal year	
Provision	1970	1971
Tax reform provisions (+):		
Corporation [1]	+$0.2	−$0.9
Individual [2]	(5)	(5)
Total, tax reform provisions	+.2	+.9
Tax relief provisions (−):		
Individual [4]	−1.7	−6.1
Other provisions (+):		
Repeal of investment credit:		
Corporation	+.7	+1.6
Individual	(5)	+.1
Total, repeal of investment credit	+.7	+1.7
Extension of tax surcharge:		
Corporation	+.3	+.7
Individual	+1.7	+.4
Total, surcharge extension	+2.0	+1.1
Extension of excise taxes	+.5	+1.1
Total, other provisions	+3.2	+3.9
Total, all provisions	+1.7	−1.3

As approved by the conference		
	Fiscal year	
Provision	1970	1971
Tax reform provisions (+):		
Corporation [1]	+$0.2	+$0.9
Individual [2]	(5)	+.2
Total, tax reform provisions	+.2	+1.1
Tax relief provisions (−):		
Individual [4]	−.3	−3.1
Other provisions (+):		
Repeal of investment credit:		
Corporation	+.9	+1.9
Individual	+.4	+.6
Total, repeal of investment credit	+1.3	+2.5
Extension of tax surcharge:		
Corporation	+.3	+.7
Individual	+1.7	+.4
Total, surcharge extension	+2.0	+1.1
Extension of excise taxes	+.5	+1.1
Total, other provisions	+3.8	+4.7
Total, all provisions	+3.7	+.7

[1] Does not reflect the increase in tax receipts resulting from the imposition of increased penalties for failure to pay tax and make deposits when due.
[2] Does not reflect increase in tax receipts resulting from the imposition of increased penalties for failure to pay tax and make deposits when due; nor the increase in receipts resulting from the provisions regarding the reporting of medical payments for which data are not available.
[3] Less than $50,000,000.
[4] Does not reflect $200,000,000 reduction in receipts resulting from certification of nontaxability for withholding tax purposes.

TABLE 12.—EFFECT OF MAJOR SOCIAL SECURITY AMENDMENTS IN H.R. 13270

[In billions]

	1970	1971	1972	1973	1974
A. AS PASSED BY THE SENATE					
Calendar years:[1]					
Benefits (−)	−$5.7	−$6.4	−$6.4	−$6.4	−$6.4
Tax (+)				+6.7	+6.7
Total	−5.7	−6.4	−6.4	+.3	+.3
Fiscal years:[1]					
Benefits (−)	−2.6	−6.3	−6.4	−6.4	−6.4
Tax (+)				+.7	+6.7
Total	−2.6	−6.3	−6.4	−5.7	+.3
B. AS APPROVED BY THE CONFERENCE					
Calendar years:[1]					
Benefits (−)	−$3.9	−$4.4	−$4.4	−$4.4	−$4.4
Fiscal years:[1]					
Benefits (−)	−1.8	−4.3	−4.4	−4.4	−4.4

[1] These estimates are at present levels.

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

Mr. LONG. I yield.

Mr. PROXMIRE. I want to congratulate the Senator from Louisiana for what I think was a remarkably fine job. In terms of fiscal responsibility—and a lot of people just do not understand this tax bill provides fiscal responsibility. If they knew what the facts really are, they would not be critical. The New York Times recently carried an editorial critical of this bill. The New York Times editorial said that the staffs of the two tax committees have resources data comparing the revenue effect of the conference version of the bill with the revenue effect of no bill at all. They have concluded that the first year the conference bill will provide an increase of $6.479 billion in revenues as compared to no bill. The New York Times suggested that this was a fraudulent comparison. The editorial then proceeded to compare the conference bill with the effect of continuing all 1969 taxes at current rates. I will come to that. But first if we compare the conference bill with what President Nixon recommended for 1970 and subsequent years which was a repeal of the surtax, but with the continuation of the 5-percent surtax until July 1, 1970, and with other revenue proposals, the conference's bill is only $500 million below the President's full revenue suggestions.

This is according to the best estimate the joint staff can give so in 1970 the President and the Congress are close together on a total revenue package since total Federal revenues are near $200 billion, the difference is about one-quarter of 1 percent. In 1971 the President would bring in about $300 million more than the conference version. In 1972 the President would bring in about $600 million less than the conference. So the President and the conference are very close in revenue impact.

Furthermore, if we take the present tax law, reenacting the surtax, continuing to have the investment credit, as we have without action on this bill, and continuing to have the same provisions in the law in 1969 but extended fully into 1970, and this is what the New York Times suggested as a comparison. Then the staff tells me this means $10.2 billion of additional revenue as compared with $6.7 billion, for the conference version or a difference of $3.5 billion more.

When we recognize that we have an economy of $950 billion, it seems to me any sensible economist would recognize that this $3.5 billion, representing about one-third of 1 percent of the GNP is not likely to be a significant factor in calendar 1970 in inflating the economy.

When we consider the good in the bill in terms of equity, it seems to me we have a bill which is feasible as well as equitable.

Mr. President, both the Senator from New York and the New York Times raise the very serious point that this bill is preempting our future ability to meet such serious problems as the crisis of our cities.

Now it is true that if we continued the 10-percent surtax for the next 10 years, if we repealed the investment credit. In other words if we increased the present level of taxes, and if that higher level of taxes did not precipitate a recession, we might have a larger Federal revenue to meet our pressing domestic problems.

But the surtax was never viewed as a permanent tax. It was proffered as a bill that would be in effect for 1 year—2 at the most.

If we compare the capacity of the Federal Government to meet its responsibilities to the extent President Nixon's tax proposals would permit and compare that to the effect of the conference bill now before it, the staff tells me that the long run difference is less than $1.4 billion per year with the President's version bringing in that much more. I submit that in a $200 billion Federal revenue total package—that is less than 1 percent and hardly a highly significant reduction.

But, Mr. President, even if we take the New York Times assumption that the Congress might carry on indefinitely with the surtax and the excise taxes, it is evident that we should have a very large dividend available for our vital domestic needs with this conference report as the law of the land. And here is why:

Secretary Laird has argued that in 1968 we were spending about $30 billion a year in Vietnam. He has said that by June of next year our Vietnam spending will be down to $17 billion.

Within a couple of years it is the expectation as well as hope of many of us that the costs of Vietnam will be almost eliminated. So here is a saving of $30 billion. In addition the Congress has indicated a willingness to reduce the military budget somewhat further. In this fiscal year for example we have cut the original 1970 fiscal year Johnson military budget—including the major defense bill and military construction bill by a total of more than $9 billion.

Furthermore with a growth of the economy of a modest 6-percent a year—including inflation—3-percent in real terms—and with a progressive tax system, Federal revenues should grow at least $12 billion a year compounded.

This should mean that by 1973 the combination of the Vietnam dividend of $30 billion and a $35 billion higher revenue that is $12 billion a year growth times 3 years. This would give the taxpayer less than one-fourth of this $60 billion melon. The taxpayer gets about $15 billion benefit from this conference bill compared to the New York Times version, 80 domestic needs stands to get some $45 billion—of which the problem of our cities can get a reasonable share.

This off-hand sketch of how this tax bill might permit the Federal Government to meet its obligations is of course subject to serious challenge, but I submit, it is at least as realistic as the New York Times conclusion that we are starving our vital domestic services to rush through a popular tax reduction bill.

Mr. LONG. Mr. President, I thank the Senator for his statement and for his contribution. As the Senator has pointed out, comparing it with having no bill at all, this measure will raise $6.479 billion for this year. In other words, the Government will be that much better off than if we had no bill.

Furthermore, if we had no bill, we would be giving an unintended windfall by way of an investment credit, amounting to $3 billion of unintended tax benefits, to those who had been led to believe they would not have it because Congress had intended to repeal the investment tax credit as of April 18.

If there is anything inflationary about raising $6.479 billion more than would be raised without the bill, I do not know what it would be. Nor do I know of anything more inflationary than permitting a huge tax windfall for the benefit of those for whom it was never intended at all, to the tune of $3 billion.

So this bill is a responsible bill from the fiscal point of view. If we have more inflation, it will not be because of what we do in this measure; it will be because of other things.

With regard to the social security increase which has been mentioned today, all the responsible people in the Department who have to study this matter day in and day out—and they are very able and competent people—agree that the surplus flowing into the fund is such that this 15-percent increase, which is something more than a cost-of-living increase, but a great deal of which is to cover a cost-of-living increase, can be paid by the fund on a continuing basis, and at no point in the future do we expect that we will have any deficit in the fund. The fund will continue to grow, notwithstanding the increase—so much so that the House of Representatives will proceed next year, and we shall work with them, to pass a social security bill to provide additional benefits for those for whom we would like to do more. We recognize that that will require a tax. We will provide whatever tax we think is necessary when we pass that measure and send it to the President.

I do think that the bill that we have passed is by far a better bill than the bill the House passed. It is by far a better bill than the bill the Senate passed; and I think it is by far a better bill than the Senate committee reported.

One thing that impressed me about it was the perfect symmetry by income groups in the bill as finally reported. For example, on page 3 of the table before

Senators—and I believe that will be table 3 of the charts I placed in the RECORD—one can see that where the percentage reduction by groups starts out at 66 percent in the House bill for those in the lowest bracket, and goes down to a plus 4-percent increase in the highest bracket, and the Senate bill starts with a 79-percent reduction in the lowest bracket and arrives at an 8-percent increase in the highest bracket. Senators may notice that the set of figures finally approved starts at 69.8 percent, roughly a 70-percent reduction in the lowest bracket, and winds up at a 7.8 percent increase in the highest bracket. But the impressive thing there is the perfect symmetry of the final chart. The tax curve starts at 69.8 percent, then 33.2 percent, 19.9 percent, 15.8 percent, 12.6 percent, 8.6 percent, 5.1 percent, and 1.9 percent, and finally an increase of 7.2 percent.

If one lays the final percentages alongside one another, he will find that almost a perfectly symetrical pattern was achieved by the conferees, and the amazing thing is that it was not achieved by design; it was achieved after we added up the combination of factors and put them through a computer.

There were a number of things about the bill that worked out in that fashion—so much so that I am inclined to believe we had far more guidance than we had any right to expect.

Mr. MANSFIELD. Mr. President, have the yeas and nays been requested on the conference report?

The PRESIDING OFFICER (Mr. CRANSTON in the chair). The yeas and nays have not been requested.

Mr. MANSFIELD. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPONG. Mr. President, today the Senate considers the conference report on the Tax Reform Act of 1969. This legislation is the result of long months of consideration by the Members and the committees of both Houses of Congress and was in response to strong demands by our citizens that the tax laws be made more fair and equitable.

The Tax Reform Act of 1969 represents the largest overhaul of the income tax laws in the history of this Nation and is a complex combination of relief and tax reform.

While the final version of the bill as reported by the conference committee is not perfect, it is a great improvement on the Senate-passed bill and represents a significant step in reforming our tax laws so that they are more equitable.

The conference bill is an improvement over that passed by the Senate in its impact on inflation. In balancing the bills projected loss from relief provisions against its gain in income from loophole closing reforms and extension of the surtax and other taxes the conference bill produces a net income of $6.5 billion in revenue in 1970 and $300 million in 1971, the crucial period in the fight against inflation.

In the area of tax reform, many significant steps were taken by Congress to make our tax laws more equitable. For example, the oil depletion allowance was reduced from 27½ to 22 percent. This will eventually net the Federal Government more than $235 million a year.

A minimum tax was imposed which reduces significantly the capacity of wealthy individuals and corporations to escape completely Federal taxation. This will net the Government over $635 million a year.

In addition the bill will tighten the regulation on the operation of private foundations and place for the first time a tax on a foundation's net investment income.

The act includes two measures of tax relief that are vital at this time. Retirement benefits under social security would be raised 15 percent across the board starting in January 1970 and the $600 personal exemption a taxpayer is allowed for himself and each of his dependents gradually would rise to a level of $750 by 1973. Next July it would increase to $650 and in 1972 it would be $700.

I supported the social security increase because I believe that the old, the infirm, and the dependent children who live on social security should have their benefits raised to allow them to meet the tremendous increase in the cost of living that has occurred in the last 2 years.

Also I believe that the increase in the $600 personal exemption is only fair in light of the increase in the cost of raising and maintaining families. The provision is timed in such a way as to be noninflationary. The present exemption of $600 has been in existence for 20 years, and is, in my judgment, unrealistic.

The conference committee struck from the Senate-passed version of the bill both reform and relief provisions that at another time might be desirable, but the conference hewed to the basic principle I followed in my votes on the Senate floor: That the provisions of tax relief should be more than compensated for by income gained from the closing of tax loopholes. In following this principle, I was forced to vote against provisions that I felt desirable in the long run, but whose effect would have produced a net revenue deficit in the bill. The conference committee had the same hard choices and has recommended to the Congress a responsible and effective tax reform bill that on balance warrants support. I shall vote for the bill. I commend the able Senator from Louisiana (Mr. LONG) and the other Senate conferees.

IMPORT AMENDMENT TO TAX REFORM BILL

Mr. THURMOND. Mr. President, I was very much distressed to note that the House-Senate conferees on the tax reform bill have failed to retain the import amendment introduced by the Senator from New Hampshire (Mr. COTTON).

My primary concern in cosponsoring and supporting this amendment was the American textile-apparel industry which finds itself in a completely untenable position when trying to compete with the low wages paid by their foreign counterparts. The same plight is facing many other American industries also, and it was in recognition of this problem that the Senate overwhelmingly adopted the Cotton amendment.

Mr. President, there is one very important and significant factor which no one should make the mistake of overlooking: The Senate has not reversed its position by not maintaining this amendment in the tax bill. The situation is quite to the contrary. By a vote of 65 to 30, the Senate has clearly and irrevocably placed itself on record as being willing to promote and support legislation designed to protect American jobs and industry. We must not lose sight of this fact.

Mr. President, I will continue to work hard to insure that the textile-apparel industry is allowed to survive in this country. The true significance of Senate adoption of the import amendment on December 10 must not be lost on those who may be reluctant to negotiate an equitable arrangement whereby the textile-apparel industry is protected.

THE TAX REFORM ACT

Mr. GOODELL. Mr. President, the tax reform bill is now before us in its final form—as reported by the House-Senate conferees.

The bill has been somewhat improved from the Senate version. Its net revenue losses are smaller and they have been deferred somewhat. Some of the costly Senate amendments have been dropped.

It remains, however, more of a tax-cutting masure than a tax reform act, at a time when wholesale cuts will only feed inflation and take away revenues desperately needed to meet the social problems facing this Nation.

An omnibus bill of this nature represents a difficult decision for all of us. The bill contains many features which I strongly favor. It corrects inequities that should have been remedied long ago. In reforming our tax structure, however, we must be sure to do so on a fiscally responsible basis with the provision of adequate revenues to pay for the changes we make.

The present bill does not rest on a sound fiscal basis. It overdoes tax decreases and "underdoes" compensating tax increases. It fails, in short, to pay for itself. The total impact of the bill is strongly inflationary and will deprive us in future years of the funds urgently required to deal with our domestic problems.

Certainly, the present level of military expenditures is a major reason why we cannot now afford to adopt the large tax reductions of this bill.

I have been an opponent of the present rate of military spending, which I consider excessive. I have proposed a complete U.S. withdrawal from Vietnam within 1 year, thus eliminating a large part of the $25 to $30 billion we are spending on the war. I also have voted against the military authorization and military appropriations bills in the Senate this year.

These military expenditures, however, remain a fact of life. Until they are reduced—as I firmly believe they should be—I cannot support a tax bill that results in such a large revenue loss.

Therefore, despite improvements, the overall effect of this bill is still negative.

I will vote against the bill.

FISCAL IMPACT

The crucial test of this bill is its fiscal effect; that is, how much net revenue gain or loss it creates.

It is imperative at this time that a tax-

reform measure adopted by Congress does not produce major revenue losses.

Inflation continues to erode the savings of millions of Americans and diminish the purchasing power of their earnings.

This year, the value of the dollar has declined by a staggering 6-percent. A 1-percent rise in the consumer price level represents an invisible but very real tax of $6 billion. A 6-percent rise, such as occurred this year, means an invisable consumer tax of $36 billion.

A major shortfall in the tax bill would only aggravate this inflation. The tax savings of such a measure could well be more than offset by a further decline in the value of the dollar.

Aside from the question of inflation, a properly balanced tax package is essential to provide the tax revenues needed to fund effective programs for dealing with the Nation's social problems.

It is difficult enough under present budgetary limitations to provide sufficient funds for welfare reform, revenue sharing, health, urban rehabilitation, education, and job training programs. It is stating the obvious that a tax bill that cuts several billion dollars from Federal revenues would make it nearly impossible to finance these efforts at adequate levels.

Our budgetary problems have been aggravated by excessive military spending that many of my colleagues and I have opposed. Such military spending, however, remains a reality. The bitter experience of many years suggests that if revenues are cut, it will be domestic programs, not military expenditures, that will suffer most.

The Senate version of the tax bill was completely out of balance.

The Senate bill would have resulted in a gigantic net revenue loss of $4.7 billion in 1971. This would have virtually ended all hopes of bringing inflation under control in that critical year.

The Senate bill would have created a long-term revenue loss of $5.5 billion, on the basis of present income figures. This would have created a permanent inflationary pressure in the economy, and drastically interfered with the financing of essential domestic programs for alleviating poverty, hunger, and urban decay.

I felt compelled to vote against the Senate version of the bill because of these clearly excessive and inflationary revenue losses.

And frankly, I found it difficult to comprehend how some of my Senate colleagues—who have been highly vocal in calling for massive new domestic programs at the Federal level—could have supported such enormous cuts in the revenues needed to finance these programs.

The conference version of the bill now before us has been brought into balance in the first 2 years, 1970 and 1971. It continues, however, to create large net revenue losses in subsequent years.

Based on present income figures, the net loss will be $1.8 billion in 1972, $3.8 billion in 1974, and $2.5 billion over the long run. As incomes rise, these losses will be larger.

In my testimony before the Senate Finance Committee, I stated that the tax bill should involve no net revenue loss. I still strongly believe this is true. A balanced tax package—in which revenue losses do not exceed revenue gains—entails in itself no inflationary risks. It also preserves the funds so badly needed for financing domestic social programs.

The long-term loss created by the bill is its major weakness. It will continue to build inflationary pressures. It will reduce the "fiscal dividend" which will accrue from the end of the Vietnam war. It will increase the budgetary strains upon our domestic programs.

How can we provide adequate funding for our existing education, employment, health, and housing programs in the next years, if we now cut billions of dollars from the tax revenues that finance these programs?

How can we initiate new programs to strengthen the fiscal base of States and localities, such as revenue sharing, if we now succumb to the temptations of wholesale tax cuts?

How can we take truly effective action to bring inflation under control and keep it under control if we now adopt legislation that will surely produce major revenue losses only a few years from now?

THE RELIEF MEASURES

The conference version of the bill increases the personal exemption to 750 in 3 yearly stages. It adopts a low-income allowance that would remove over 5 million poor and near-poor from the tax rolls. It increases the standard deduction to 15 percent of income with a $2,000 ceiling, in 3 yearly stages. It retains a Senate provision that would lower the rate for single persons—now so unfairly treated—so that they would pay no more than 20 percent above the tax for married persons of the same income.

These are good measures. I would have supported them under circumstances of fiscal responsibility with the provision of adequate revenues to pay for them.

Again, the real obstacle in the way of these tax relief measures is the current rate of military spending—nearly $90 billion a year.

Once we are able to reduce this military spending to a more reasonable level, as I certainly hope we can, the implementation of these tax relief measures would begin to make fiscal sense.

The bill, however, does not raise the revenues needed to meet the cost of these relief measures.

Tax relief is not real relief if the taxpayer's savings are eaten up by inflation. The net loss created by this bill may well reduce the purchasing power of the dollar by more than the taxes saved through its relief provisions.

SOCIAL SECURITY

The conference bill, like the Senate version, contains an across-the-board 15-percent increase in social security benefits.

I supported this increase in the Senate because I felt it essential to protect the financial security of millions of elderly Americans. A 15-percent increase is needed to keep pace with increases in the cost of living over recent years.

I believe, however, that Congress will adopt this increase as a separate measure even if this tax bill is not made law.

SURTAX

The present bill, like the House and Senate versions, extended the surtax at a 5-percent rate until the middle of next year.

I have long contended that this surtax extension is essential to brake inflation and curb rising interest rates. In fact, I would still prefer the extension of a 10-percent surcharge until the middle of next year.

Last June, I wrote all my former colleagues in the House urging them to adopt a surtax extension; and I voted for it in the Senate.

I trust, however, that Congress—assuming it has any sense of fiscal responsibility—would continue the surtax for another 6 months even if this tax reform bill is not enacted.

INVESTMENT CREDIT

In my testimony before the Senate Finance Committee, I indicated that I had substantial reservations about the advisibility of repealing the investment tax credit.

Vigorous fiscal measures are clearly needed to combat the inflation that now threatens our economy. We must accept the fact that these measures, to be effective, cannot be painless.

We must be equally aware, however, of the risks of putting all the fiscal and monetary brakes on at once. The anti-inflationary measures we are invoking now may take a substantial period of time before they are fully felt—and then may "grab" all at once.

This problem of a long leadtime is particularly serious in the case of the investment tax credit. The credit does not primarily affect consumer spending now; it affects capital expenditures 6 months to 2 years from now. Removing the credit now may take hold at a future time when we are no longer so much concerned with inflation as with recession.

The experience of a few years ago—when Congress repealed the credit only to restore it—suggests the inadvisability of trying to turn the credit on and off to offset swings in the economy.

I think it is essential to have a permanent tax incentive for long-run economic growth. The investment tax credit served this function.

The fact that the bill eliminates the investment credit—and thus adds to the risk of recession—is a further basis for voting against the bill.

LOOPHOLES

The present bill makes some steps toward closing loopholes in the present tax law which favor special interest groups.

One is the adoption of the minimum tax on wealthy individuals who are now escaping taxation by various deductions. I support the principle of such a minimum tax, and voted for the Senate amendment for calculating the tax that was adopted by the conference.

In other respects, the Senate bill has been unduly solicitous of private interest groups, at the expense of real reform. A glaring example is the oil-depletion allowance—which was reduced in the House to 20 percent but only decreased to 22 percent in conference version. I supported an amendment—which failed in the Senate—to reduce the allowance to 20 percent.

FOUNDATIONS

The treatment of private foundations in this bill is most disappointing. It is true that the bill provides a positive means for curtailment of past foundation abuses—such as self-dealing and the misuse of tax exemption for private influence or gain—and requires greater public disclosure of foundation activities. Some of the harsh provisions in the House bill, later changed by the Senate Finance Committee, regarding excessive sanctions on foundations and their managers and foundation responsibility for the expenditures of their grantees, have been accepted in conference.

Nonetheless, in a number of ways this bill reflects a punitive approach to foundation reform which will merely deprive society of an important source of creativity and thought. We have, in effect, not reformed the foundations; we have somewhat deformed them.

I am strongly opposed to the imposition of a 4-percent tax on foundation net investment income. The conference committee has made a critical mistake in rejecting the supervisory fee based on assets which the Senate passed.

In my judgment, the tax is an unwarranted departure from the principle that income of nonprofit organizations organized for charitable purposes should be free from taxation.

It is discriminatory in that it would only be levied against foundations and not against other nonprofit charities such as schools, universities, churches, and hospitals.

It would hit not the donors or officers of foundations, but the whole range of educational, scientific, medical, cultural, and social activities they finance. A 4-percent tax on foundations means an automatic corresponding loss of funds for these activities. To the extent that foundations aid the public, the public is hurt by this tax on their investment income.

In my opinion, the only rationale for collecting revenue from foundations should be to encourage more effective supervision of their activities through the imposition of a filing fee. The language of the Senate bill clearly stated that an annual audit fee on assets would be imposed for the purposes of administration, and provided for annual review by the Secretary of the Treasury so that collection of the fee would accurately reflect the costs of such administration and supervision. There are no such provisions in this bill or in the conference committee report. Certainly, it was the view of the Senate Finance Committee and the Senate as a whole that these funds should be collected only to cover increased auditing the supervision by the Internal Revenue Service. A 4-percent tax on income is already twice as much revenue as the Treasury indicated it would need to carry out such an auditing program adequately.

In sum, this tax creates a dangerous precedent. If it is appropriate to tax foundation income now at the rate of 4 percent, then why not at 10 percent, or 25 percent next year or the year after? Will other nonprofit charities such as schools, universities, and churches—which escaped this time—be the next target? If the Federal Government can tax foundations, State and local governments could do the same. In my judgment, the road ahead is only too clear: the Government now has opened the door to taking a larger and larger bite from foundation income, and as a result a smaller and smaller portion will be left over to fulfill charitable and social purposes.

A second aspect of this bill which deeply disturbs me is the broad language restricting foundations in taking positions on the social issues facing us today.

Foundations are now engaged in studies or projects on almost every topic of public concern, be it air pollution, juvenile delinquency, court reform, drug abuse, international satellite communications, or the problems of famine in India. Every one of these topics is a matter of significant legislative concern. Every one of them is a matter of public interest.

I do not think it makes sense to inhibit foundations in any way from sharing their ideas with those who must make decisions in these vital areas.

Third, the bill creates a broad definition of private foundations which describes them from a totally new vantage point. The public has traditionally viewed foundations as private, nonprofit organizations with a principal fund of their own, established primarily to make grants in support of charitable, educational, scientific, and civic purposes serving the public welfare.

The provisions of the bill would expand this traditional definition to such an extent that a wide range of other institutions would now be classified as "private foundations."

Some of these institutions are primarily engaged in research or in conducting studies on education, medical, scientific, and social issues. They have never been considered foundations in the past. Others are public service organizations working with the community, or health, welfare, and other programs. Many of them are heavily dependent upon foundation grants for their very existence. Newly classified as foundations under the bill, they will be subject to the 4-percent tax on income—thereby having less money available to conduct their activities; and they will also be subject to the bill's program limitations upon foundations.

Finally, I regret that the conference committee has not fully accepted the Senate provision regarding nonpartisan voter education and registration drives. By a substantial margin, the Senate indicated its interest in a far less restrictive version than the House has passed. I would voice my concern that we have overreacted to past abuses in curtailing activities of organizations which have and can contribute so much to broadening participation in our democratic processes.

Private foundations have played a vital role in the scientific, intellectual, cultural, and social development of this Nation. I am distressed that their role has not been recognized in this bill.

CAPITAL GAINS

The House proposed a far-reaching change in the treatment of capital gains. It did so with very little study of how such a change could affect capital formation and economic growth.

In my testimony before the Finance Committee, I cautioned against making such a fundamental change in so much haste, saying:

> The special treatment now accorded to capital gains is not just a loophole. It is a way of stimulating investment. Any change in this treatment must be considered, therefore, not in the loophole-plugging spirit merited by special privilege provisions of the tax code, but in the spirit of inquiry into all factors affecting capital formation and economic growth in this nation.
>
> It may well be that changes of the present rules are desirable. But the effect of those changes on the economy, on markets, and on individuals must first be thoroughly understood. The haste with which action was taken on these changes in the House of Representatives did not permit adequate investigation of the consequences.

The conference version has dropped one of the House changes—the extension of the 6-month holding period. It has, however, followed the lead of the House in partly abolishing the 25-percent alternate tax for capital gains. I still remain unconvinced that sufficient study has been made of the economic impact of this action.

AMENDMENT OF THE DISTRICT OF COLUMBIA POLICE AND FIREMEN'S SALARY ACT OF 1958 AND THE DISTRICT OF COLUMBIA TEACHERS' SALARY ACT OF 1955, TO INCREASE SALARIES

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 622, S. 2694.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (S. 2694) to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes.

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

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the District of Columbia with an amendment to strike out all after the enacting clause and insert:

TITLE I—SALARY INCREASES FOR DISTRICT OF COLUMBIA POLICEMEN AND FIREMEN

SEC. 101. Section 101 of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4–823) is amended to read as follows:

"SEC. 101. The annual rate of basic compensation of the officers and members of the Metropolitan Police force and the Fire Department of the District of Columbia shall be fixed in accordance with the following schedule of rates:

"SALARY SCHEDULE

"Salary class and title	Service steps						Longevity steps		
	1	2	3	4	5	6	A	B	C
Class 1:									
Subclass (a)	$8,500	$8,755	$9,180	$9,605	$10,285	$10,965	$11,390	$11,815	$12,240
Fire private Police private									
Subclass (b)	9,095	9,350	9,775	10,200	10,880	11,560	11,985	12,410	12,835
Private assigned as: Technician. Plainclothesman. Station clerk. Motorcycle officer.									
Class 2:									
Subclass (a)	9,775	10,340	10,905	11,470			12,035	12,600	13,165
Fire inspector.									
Subclass (b)	10,370	10,935	11,500	12,065			12,630	13,195	13,760
Fire inspector assigned as technician.									
Class 3	10,625	11,155	11,685	12,215			12,745	13,275	13,805
Assistant marine engineer. Assistant pilot. Detective.									
Class 4:									
Subclass (a)	11,050	11,600	12,150	12,700			13,250	13,800	14,350
Fire Sergeant. Police Sergeant.									
Subclass (b)	11,475	12,050	12,625	13,200			13,775	14,350	14,925
Detective sergeant.									
Subclass (c)	11,645	12,195	12,745	13,295			13,845	14,395	14,945
Police sergeant assigned as motorcycle officer.									
Class 5	12,750	13,390	14,030	14,670			15,310	15,950	
Fire lieutenant. Police lieutenant.									
Class 6	13,815	14,505	15,195	15,885			16,575	17,265	
Marine engineer. Pilot.									
Class 7	14,875	15,620	16,365	17,110			17,855	18,600	
Fire captain. Police captain.									
Class 8	17,000	17,850	18,700	19,550			20,400	21,250	
Battalion fire chief. Police inspector.									
Class 9	19,550	20,530	21,510	22,490			23,470	24,450	
Deputy fire chief. Deputy chief of police.									
Class 10	21,500	22,500	23,500	24,500			25,500	26,500	
Assistant fire chief. Assistant chief of police. Commanding officer of White House Police. Commanding officer of the U.S. Park Police.									
Class 11	27,000	28,000	29,000	30,000					
Fire chief. Chief of police									

SEC. 102. The rates of basic compensation of officers and members to whom the amendments made by section 101 of this title apply shall be adjusted as follows:

Each officer and member receiving basic compensation immediately prior to the effective date of this title at one of the scheduled service or longevity rates of a salary class or subclass in the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958 shall receive a rate of basic compensation at the corresponding scheduled service or longevity rate in effect on and after the effective date of this title, except that:

(a) Each officer or member who immediately prior to the effective date of this title was assigned as technician I or plainclothesman in subclass (b) of class 1 or as technician II, station clerk, or motorcycle officer in subclass (c) of class I shall, on the effective date of this title be assigned as and receive basic compensation as technican, plainclothesman, station clerk or motorcycle officer in subclass (b) of class 1 at the service step or longevity step in subclass (b) corresponding to that service step or longevity step in which he was serving immediately prior to the effective date of this title.

(b) Each officer or member who immediately prior to the effective date of this title was serving as a fire inspector assigned as technician I or technician II in subclass (b) or (c) of class 2 shall, on the effective date of this title, be placed and receive basic compensation as fire inspector assigned as technician in subclass (b) of class 2 at the service step or longevity step in subclass (b) corresponding to that service step or longevity step in which he was serving immediately prior to the effective date of this title.

(c) Each officer or member who immediately prior to the effective date of this title was serving in subclass (b) of class 9 shall, on the effective date of this title be placed in and receive basic compensation in class 10 at the service step or longevity step corresponding to that service step or longevity step in which he was serving immediately prior to the effective date of this title.

(d) The Fire Chief or Chief of Police who immediately prior to the effective date of this title was serving in class 10 shall on the effective date of this title be placed in and receive basic compensation in class 11 at the service step in which he was serving immediately prior to the effective date of this title.

(e) Each officer or member of the Metropolitan Police force who is performing the duty of a dog handler on or after the effective date of this title shall receive in addition to his basic compensation an additional $595 per annum, except that if a police private is classed as technician in subclass (b) of class 1 in the salary schedule in section 101 of the District of Columbia Police and Firemen's Salary Act of 1958 solely on account of his duties as dog handler, such police private shall not be entitled to the additional compensation authorized by this paragraph.

SEC. 103. Section 303(c) of the District of Columbia Police and Firemen's Salary Act of 1958, as amended (D.C. Code, sec. 4–829(c)), is amended by deleting "(b), or (c)" and inserting in lieu thereof "or (b)".

SEC. 104. Paragraphs (2) and (3) of section 401(a) of the District of Columbia Police and Firemen's Salary Act of 1958 (D.C. Code, sec. 4–832(a)) are amended to read as follows:

"(2) Not more than three successive longevity step increases may be granted to any officer or member in salary classes 1 through 4, nor more than two successive longevity step increases may be granted to any officer or member in salary classes 5 through 10.

"(3) In the case of the officers or members serving in salary classes other than class 1, each longevity step increase shall be equal to one step increase of the salary class or subclass of a salary class in which the officer or member is serving."

SEC. 105. (a) Section 105 of Public Law 88–575, approved September 2, 1964 (78 Stat. 882, D.C. Code, sec. 4–832(c)), is repealed, effective on the date of enactment of this title.

(b) Notwithstanding this section, the rate of basic, gross, or total annual pay received by an officer or member immediately before the effective date of this title shall not be reduced by reason of enactment of this section.

SEC. 106. Except for section 105, this title shall take effect on the first day of the first pay period beginning on or after July 1, 1969.

SEC. 107. This title may be cited as the "District of Columbia Police and Firemen's Salary Act Amendments of 1969".

TITLE II—SALARY INCREASE FOR DISTRICT OF COLUMBIA TEACHERS

SEC. 201. This title may be cited as the "District of Columbia Teachers' Salary Act Amendments of 1969".

SEC. 202. The District of Columbia Teachers' Salary Act of 1955 (69 Stat. 521), as amended (D.C. Code, sec. 31–1501 et seq.), is amended as follows:

(1) Section 1 (D.C. Code, sec. 31–1501) is amended by striking the salary schedules contained therein and inserting in lieu thereof the following:

"PROPOSED TEACHERS' SALARY ACT AMENDMENTS

	"Service steps								
	1	2	3	4	5	6	7	8	9
Class 1:									
A, Superintendent of schools	$38,500								
B, Vice superintendent	35,000								
Class 2:									
A, Deputy superintendent	31,000								
B, Associate superintendent	29,000								
Class 3: Assistant superintendent	22,190	$22,720	$23,250	$23,780	$24,130	$24,840	$25,370	$25,900	$26,430
Class 4	19,480	19,940	20,400	20,860	21,320	21,780	22,240	22,700	23,160
Director, curriculum.									
Director, staff development.									
Executive assistant to superintendent.									
Class 5:									
Group A, bachelor's degree	17,600	18,040	18,480	18,920	19,360	19,800	20,240	20,680	21,120
Group B, master's degree	18,380	18,820	19,260	19,700	20,140	20,580	21,020	21,460	21,900
Group C, master's degree plus 30 credit hours	18,770	19,210	19,650	20,090	20,530	20,970	21,410	21,850	22,290
Group D, doctor's degree	19,160	19,600	20,040	20,480	20,920	21,360	21,800	22,240	22,680
Chief examiner.									
Executive assistants to vice and associate superintendents.									
Director of food services.									
Director, industrial and adult education.									
Class 6:									
Group B, master's degree	17,860	18,285	18,710	19,135	19,560	19,985	20,410	20,835	21,260
Level IV, principal	17,860	18,285	18,710	19,135	19,560	19,985	20,410	20,835	21,260
Level III, principal	17,345	17,770	18,195	18,620	19,045	19,470	19,895	20,320	20,745
Level II, principal	16,830	17,255	17,680	18,105	18,530	18,955	19,380	19,805	20,230
Level I, principal	16,315	16,740	17,165	17,590	18,015	18,440	18,865	19,290	19,715
Group C, M.A. plus 30	18,250	18,675	19,100	19,525	19,950	20,375	20,800	21,225	21,650
Level IV, principal	18,250	18,675	19,100	19,525	19,950	20,375	20,800	21,225	21,650
Level III, principal	17,735	18,160	18,585	19,010	19,435	19,860	2,0285	20,710	21,135
Level II, principal	17,220	17,645	18,070	18,495	18,920	19,345	19,770	20,195	20,620
Level I, principal	16,705	17,130	17,555	17,980	18,405	18,830	19,255	19,680	20,105
Group D, doctors degree	18,640	19,065	19,490	19,915	20,340	20,765	21,190	21,615	22,040
Level IV, principal	18,640	19,065	19,490	19,915	20,340	20,765	21,190	21,615	22,040
Level III, principal	18,125	18,550	18,975	19,400	19,825	20,250	20,675	21,100	21,525
Level II, principal	17,610	18,035	18,460	18,885	19,301	19,735	20,160	20,585	21,010
Level I, principal	17,095	17,520	17,945	18,370	18,795	19,220	19,645	20,070	20,495
Assistant to assistant superintendent (elementary schools).									
Assistant to assistant superintendent (junior and senior high schools).									
Assistant to assistant superintendent (general research, budget, and legislation).									
Assistant to assistant superintendent of pupil personnel services.									
Assistant to assistant superintendent (industrial and adult education, vocational education, evening and summer school).									
Director, elementary education (supervision and instruction).									
Director, health, physical education, athletics and safety									
Director, special education.									
Principal, senior high school.									
Principal, junior high school.									
Principal, elementary school.									
Principal, vocational high school.									
Principal, Americanization school.									
Principal, boys' junior-senior high school.									
Principl, Capitol Page School.									
Principal, health school.									
Principal, laboratory school.									
Principal, veterans' high school.									
Class 7:									
Group B, master's degree	16,205	16,595	16,985	17,375	17,765	18,155	18,545	18,935	19,325
Group C, master's degree plus 30 credit hours	16,595	16,985	17,375	17,765	18,155	18,545	18,935	19,325	19,715
Group D, doctor's degree	16,985	17,375	17,765	18,155	18,545	18,935	19,325	19,715	20,105
Supervising director, elementary education (supervision and instruction).									
Supervising director, audiovisual instruction.									
Supervising director, adult education and summer school.									
Supervising director, subject field.									
Supervising director, reading clinic.									
Supervising director, athletics.									
Director, school attendance.									
Supervising director, curriculum.									
Director, elementary education.									
Director, elementary education (administration).									
Class 8:									
Group B, master's degree	14,685	14,985	15,385	15,785	16,185	16,585	16,985	17,485	17,985
Group C, master's degree plus 30 credit hours	15,005	15,305	15,705	16,105	16,505	16,905	17,305	17,805	18,305
Group D, doctor's degree	15,325	15,625	16,025	16,425	16,825	17,225	17,625	18,125	18,625
Statistical analyst.									
Assistant principal, senior high school.									
Assistant principal, junior high school.									
Assistant principal, elementary school.									
Assistant principal, vocational high school.									
Assistant principal, Americanization school.									
Assistant princ pal, health school.									
Class 9:									
Group A, bachelor's degree	13,880	14,240	14,600	19,960	15,320	15,680	16,040	16,400	16,760
Group B, master's degree	14,660	15,020	15,380	15,740	16,100	16,460	16,820	17,180	17,540
Group C, master's degree plus 30 credit hours	15,050	15,410	15,770	16,130	16,490	16,850	17,210	17,570	17,930
Group D, doctor's degree	15,440	15,800	16,160	16,520	16,880	17,240	17,600	17,960	18,320
Assistant director, food services.									
Class 10:									
Group B, master's degree	14,095	14,445	14,795	15,145	15,495	15,845	16,195	16,545	16,895
Group C, master's degree plus 30 credit hours	14,485	14,835	15,185	15,535	15,885	16,235	16,585	16,935	17,285
Group D, doctor's degree	14,875	15,225	15,575	15,925	16,275	16,625	16,975	17,325	17,675
Assistant director, audio visual instruction.									
Assistant director, subject field.									
Assistant director, adult education and summer school.									
Supervisor, elementary education.									
Class 11:									
Group B, master's degree	13,670	14,005	14,340	14,675	15,010	15,345	15,680	16,015	16,350
Group C, master's degree plus 30 credit hours	14,060	14,395	14,730	15,065	15,400	15,735	16,070	16,405	16,740
Group D, doctor's degree	14,450	14,785	15,120	15,455	15,790	16,125	16,460	16,795	17,130
Assistant director, practical nursing.									
Class 12:									
Group B, master's degree	13,200	13,525	13,850	14,175	14,500	14,825	15,150	15,475	15,800
Group C, master's degree plus 30 credit hours	13,590	13,915	14,240	14,565	14,890	15,215	15,540	15,865	16,190
Group D, doctor's degree	13,980	14,305	14,630	14,955	15,280	15,605	15,930	16,255	16,580."
Chief attendance officer.									
Clinical psychologist.									

PROPOSED TEACHERS' SALARY ACT AMENDMENTS—Continued

	"Service steps												
	1	2	3	4	5	6	7	8	9	10	11	12	13
Class 13:													
Group B, master's degree	$12,080	$12,465	$12,850	$13,235	$13,620	$14,005	$14,390	$14,775	$15,160	----	----	----	----
Group C, master's degree plus 30 credit hours	12,470	12,855	13,240	13,625	14,010	14,395	14,780	15,165	15,550	----	----	----	----
Group D, doctor's degree	12,860	13,245	13,630	14,015	14,400	14,785	15,170	15,555	15,940	----	----	----	----
Assistant professor, laboratory school.													
Psychiatric social worker.													
Class 14:													
Group A, bachelor's degree	9,250	9,660	10,070	10,480	10,890	11,300	11,710	12,120	12,530	$12,940	$13,350	$13,760	$14,170
Group B, master's degree	10,030	10,440	10,850	11,260	11,670	12,080	12,490	12,900	13,310	13,720	14,130	14,540	14,950
Group C, master's degree plus 30 credit hours	10,420	10,830	11,240	11,650	12,060	12,470	12,880	13,290	13,700	14,110	14,520	14,930	15,340
Group D, doctor's degree	10,810	11,220	11,630	12,040	12,450	12,860	13,270	13,680	14,090	14,500	14,910	15,320	15,730
Coordinator of practical nursing.													
Census supervisor.													

"CLASS 15

	"Service steps													
	1	2	3	4	5	6	7	8	9	10	11	12	13	Y
Group A, bachelor's degree	$8,000	$8,320	$8,640	$8,960	$9,280	$9,600	$9,950	$10,300	$10,650	$11,000	$11,350	$14,700	$12,050	$13,000
Group A–1, bachelor's degree plus 15 credit hours	8,400	8,720	9,040	9,360	9,680	10,000	10,360	10,720	11,080	11,440	11,800	12,160	12,520	13,800
Group B, master's degree	8,800	9,175	9,550	9,925	10,450	11,000	11,500	11,900	12,300	12,700	13,100	13,500	13,900	15,200
Group C, master's degree plus 30 credit hours	9,200	9,575	9,950	10,325	10,850	11,400	11,900	12,300	12,700	13,100	13,500	13,900	14,300	15,600
Group D, master's degree plus 60 credit hours	9,600	9,975	10,350	10,725	11,250	11,800	12,300	12,700	13,100	13,500	13,900	14,300	14,700	16,100."
Teacher, elementary and secondary schools.														
Attendance officer.														
Child labor inspectors.														
Counselor, placement.														
Counselor, elementary and secondary schools.														
Librarian, elementary and secondary schools.														
Research assistant.														
School social worker.														
Speech correctionist.														
School psychologist.														

(2) Section 2(c)(2) (D.C. Code, sec. 31–1511(c)(2)) is amended to read as follows:

"(2) The terms 'plus fifteen credit hours' and 'plus thirty credit hours' means the equivalent of not less than fifteen graduate semester hours beyond the bachelor's degree or thirty graduate semester hours beyond the master's degree as the case may be in academic, vocational, or professional courses, representing a definite educational program satisfactory to the Board, except that in the case of a shop teacher in the vocational education program the fifteen or thirty semester hours need not be graduate semester hours. Graduate credit hours beyond thirty which were earned prior to obtaining a master's degree may be applied in computing such thirty credit hours. The term 'plus sixty credit hours' means the equivalent of not less than sixty graduate semester hours in academic, vocational, or professional courses beyond a master's degree, representing a definite educational program satisfactory to the Board, except that in the case of a shop teacher in the vocational education program the sixty semester hours need not be graduate semester hours. Graduate credit hours beyond thirty which were earned prior to obtaining a master's degree may be applied in computing such sixty credit hours."

(3) Section 3 (D.C. Code, sec. 31–1512) is amended by adding the words "or salary class" immediately after the word "position" each time it appears in the section.

(4) Section 4 (D.C. Code, sec. 31–1521) is amended to read as follows:

"SEC. 4. Any employee of the Board of Education in group A of salary class 15 who possesses a bachelor's degree plus fifteen credit hours shall be transferred in accordance with section 10 (a) and (b) to group IA of salary class 15."

(5) Section 5 (D.C. Code, sec. 31–1522) is amended by adding a subsection (f), reading as follows:

"(f) Whenever a teacher or school officer is changed to a lower salary class or to a lower level in the same salary class as in the case of school principals in the public school system, the Superintendent of Schools is authorized to fix the rate of compensation at a rate provided for in the salary class or level to which the employee is changed which does not exceed his existing rate of compensation, except that if his existing rate falls between two service steps provided in such lower salary class or level, he shall receive the higher of such rates; if he is receiving a rate of basic compensation in excess of the maximum rate provided in such lower class or level in which he is to be placed, he will retain his existing rate of compensation and receive one-half of any future increases granted his new salary class or level: *Provided*, That such reduction to a lower salary class or level is for reasons other than (a) for personal cause; (b) at his own request; (c) as a condition of a previous temporary promotion to a higher grade; or, (d) because of a reduction in force brought about by lack of funds or curtailment of work."

(6) Section 6(a)(1) (D.C. Code, sec. 31–1531(a)(1)) is amended to read as follows:

"(1) On July 1, following the effective date of the District of Columbia Teachers' Salary Act Amendments of 1969 each permanent employee in salary class 15 who is on service step 13 and completes 15 years of creditable service shall be assigned to longevity step Y. Each permanent employee in salary class 15 who is on longevity step X, on such effective date, shall be assigned to longevity step Y. In determining years of creditable service in salary classes 3 through 15 for placement on service steps, credit shall be given for previous service in accordance with the provisions of this Act governing the placement of employees who are newly appointed, reappointed, or reassigned or who are brought under this Act in accordance with the provisions of section 5."

(7) Section 6(b) (D.C. Code, Sec. 31–1531(b)) is amended by striking everything in the paragraph after the second sentence and inserting in lieu thereof the following: "Beginning July 1 following the effective date of the District of Columbia Teachers' Salary Act Amendments of 1969, each permanent employee who has not reached the highest service step for his salary class, or class and group, under this Act shall advance one such step each year until he reaches the highest step for his class, or class and group, except that each employee in salary class 15 shall advance from service step 13 to longevity step Y on July 1, following the completion of fifteen years of creditable service: *Provided*, That the Board of Education, on the written recommendation of the Superintendent of Schools, is authorized to deny any such salary advancement for the year immediately following any year in which the employee fails to receive a performance rating of 'satisfactory' from his superior officer."

(8) Section 10, subsections (a) and (b) (D.C. Code, sec. 31–1535 (a) and (b)) are amended to read as follows:

"(a) On and after the effective date of the District of Columbia Teachers' Salary Act Amendments of 1969, each promotion to group B, group C, or group D, within a salary class of group IA within salary class 15, shall become effective—

"(1) on the date of the regular Board meeting of the twelfth month prior to the date of approval of promotion by the Board, or

"(2) on the effective date of the master's degree or doctor's degree or on the completion of thirty or sixty credit hours beyond the master's degree or fifteen credit hours beyond the bachelor's degree in salary class 15, as the case may be, whichever is later.

"(b) Any employee in a position in a salary class in the salary schedules in section 1 of this Act who is promoted to group B, group C, or group D of such salary class or group IA in the case of salary class 15, shall be placed in the same numerical service step in his new group which he would have occupied in the group from which promoted."

(9) Section 13(a) (D.C. Code, sec. 31–1542(a)) is amended to read as follows:

"(a) The Board is authorized to conduct as part of its public school system the following: summer school programs, extended school year programs, adult education programs, and Americanization schools under and within appropriations made by Congress. The pay for teachers, officers, and other education employees in the summer school programs, adult education programs, and veterans' summer high school centers shall be as follows:

"Classification	Per period		
	Step 1	Step 2	Step 3
Summer school (regular):			
Teacher, elementary and secondary schools; counselor, elementary and secondary schools; librarian, elementary and secondary schools; school social worker; speech correctionist; school psychologist	$6.86	$7.61	$8.42
Psychiatric social worker	8.02	8.92	9.86
Clinical psychologist	8.35	9.29	10.28
Assistant principal, elementary and secondary school	9.69	10.77	11.92
Supervising director	10.02	11.15	12.33
Principal, elementary and secondary schools	10.69	11.89	13.15
Veterans' summer school centers: Teacher	6.86	7.61	8.42
Adult education schools:			
Teacher	7.54	8.38	9.27
Assistant principal	10.66	11.85	13.11
Principal	11.76	13.07	14.46."

(10) Section 13(d)(1) (D.C. Code, sec. 31–1542(d)(1)) is amended to read as follows:

"(1) The Board is authorized to pay an employee in salary class 15 who performs an extra-duty activity the additional compensation prescribed for such extra-duty activity by the Commissioner in accordance with this subsection: *Provided*, That (1) the activity involves the supervision and direction of students who select such activity voluntarily and (2) that the activity is performed on a continuing basis in addition to the standard teaching load of a regular duty school teacher or work load assigned to other employees in salary class 15."

(11) Section 13(d)(2) (D.C. Code, sec. 31–1542(d)(2)) is amended by adding the words "or other employees" after "classroom teachers" each time it appears in the subsection, and by striking out "monthly" and inserting in lieu thereof "semimonthly".

(12) Section 14 (D.C. Code, sec. 31–1543) is amended to read as follows: "On July 1, 1970, each employee assigned to salary class 15 shall be classified as a teacher for payroll purposes and his annual salary shall be paid in semimonthly installments in accordance with existing law. All other employees covered by the provisions of this Act shall have their annual salaries paid in twenty-four semimonthly installments in accordance with existing law. Annual salaries for employees paid in twenty-four semimonthly installments means calendar year for purposes of this section."

SEC. 203. The increase provided in this title for the position of Superintendent of Schools under class IA shall be effective only with respect to an individual who is appointed to that position subsequent to the date of the enactment of this title.

SEC. 204. The Act approved May 26, 1908, entitled "An Act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and nine, and for other purposes" is amended as follows:

(1) The final proviso under PUBLIC SCHOOLS, ALLOWANCE TO PRINCIPALS (D.C. Code sec. 31–609), is amended to read as follows: "That, effective July 1, 1970, the salaries of employees in salary class 15 and such other employees who were paid on a ten-month basis immediately prior to the effective date of the District of Columbia Teachers' Salary Act Amendments of 1969, whose services commence with the opening of school and who shall perform their duties, shall begin on the 1st day of September and shall be paid in twenty semimonthly installments. The first payment shall be made on the 1st day of October, or as near that date as practicable; and the second payment shall be made fifteen days thereafter or as near that date as practicable. Subsequent payments shall be on the first and sixteenth days of the month or as near those dates as practicable: *Provided*, That the salaries of other employees in salary class 15 shall begin when they enter upon their duties."

(2) The final paragraph under PUBLIC SCHOOLS, ALLOWANCE TO PRINCIPALS (D.C. Code, sec. 31–630), is amended to read as follows:

"Effective July 1, 1970, the following rules for division of time and computation of pay for services rendered are hereby established: Compensations of all employees in salary class 15 and such other employees who were paid on a ten-month basis immediately prior to the effective date of the District of Columbia Teachers' Salary Act Amendments of 1969 shall be paid in twenty semimonthly installments. In making payments for a fractional part of a month, one-fifteenth of an installment shall be the daily rate of pay. For the purpose of computing such compensation and for computing time for services rendered during a fractional part of a semimonthly period in connection with the compensation of such employees, each and every semimonthly period shall be held to consist of fifteen days, without regard to the actual number of days in any semimonthly period thus excluding the thirty-first day of any calendar month from the computation and treating February as if it actually had thirty days. Any person entering the service of the schools during a thirty-one day month and serving until the end thereof shall be entitled to pay for that month from the date of entry to the thirtieth day of said month, both days inclusive; and any person entering said service during the month of February and serving until the end thereof shall be entitled to one month's pay, less as many days thereof as there were days elapsed prior to the date of entry: *Provided*, That for one day's unauthorized absence on the thirty-first day of any calendar month one day's pay shall be forfeited."

SEC. 205. The provisions of this title shall take effect on the first day of the first pay period which begins on or after September 1, 1969.

TITLE III—FUNDS

SEC. 301. (a) For the fiscal year ending June 30, 1970, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the District of Columbia, in addition to any other amounts authorized under this or any other Act to be appropriated to the District of Columbia for such fiscal year, the amount of $5,200,000 for use in payment of increases in salaries of police, firemen, teachers, and school officers authorized by this Act for the period commencing January 1, 1970, and ending June 30, 1970.

(b)(1) For the fiscal year ending June 30, 1970, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated to the District of Columbia, in addition to any other amounts authorized under this or any other Act to be appropriated to the District of Columbia for such fiscal year, the amount of $5,600,000 for use in payment of increases in salaries of police, firemen, teachers, and school officers authorized by this Act for the period commencing January 1, 1970, and ending June 30, 1970.

(2) In the event that the tax revenues of the District of Columbia are increased during the fiscal year ending June 30, 1970, by reason of legislation enacted by the Congress subsequent to the date of the enactment of this Act, the District of Columbia with respect to any amount appropriated pursuant to paragraph (1) of this subsection, shall reimburse the United States in an amount equal to the amount of such increase in tax revenues received by the District of Columbia during such fiscal year, or such amount so appropriated, whichever is the lesser

SEC. 302. For the fiscal year ending June 30, 1970, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to the District of Columbia, in addition to any other amounts authorized under this or any other Act to be appropriated to the District of Columbia for such fiscal year, the amount of $10,746,000 for use in payment of increases in salaries of police, firemen, teachers, and school officers authorized by this Act for the period commencing July 1, 1969, and ending December 31, 1969.

The amendment was agreed to.

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

The title was amended so as to read: "A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 and the District of Columbia Teachers' Salary Act of 1955 to increase salaries, and for other purposes."

TAX REFORM ACT OF 1969—CONFERENCE REPORT

The Senate resumed the consideration of 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. 13270) to reform the income tax laws.

The PRESIDING OFFICER. The question is on agreeing 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. 13270) to reform the income tax laws.

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 Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Texas (Mr. YARBOROUGH) are necessarily absent.

I further announce that, if present and voting, the Senator from Louisiana (Mr. ELLENDER), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Missouri (Mr. SYMINGTON), and the Senator from Texas (Mr. YARBOROUGH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. MURPHY), the Senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from New Jersey (Mr. CASE), the Senator from Oregon (Mr. HATFIELD), the Senator from Kentucky (Mr. COOPER), and the Senator from New Hampshire (Mr. COTTON) would each vote "yea."

On this vote, the Senator from Hawaii (Mr. FONG) is paired with the Senator from Texas (Mr. TOWER). If present and voting, the Senator from Hawaii would vote "yea" and the Senator from Texas would vote "nay."

On this vote, the Senator from California (Mr. MURPHY) is paired with the Senator from Alaska (Mr. STEVENS). If present and voting, the Senator from California would vote "yea" and the Senator from Alaska would vote "nay."

The result was announced—yeas 71, nays 6, as follows:

[No. 273 Leg.]

YEAS—71

Aiken	Hansen	Muskie
Allen	Harris	Nelson
Baker	Hart	Packwood
Bayh	Hartke	Pastore
Bennett	Holland	Pearson
Bible	Hruska	Pell
Boggs	Hughes	Percy
Brooke	Inouye	Prouty
Burdick	Jackson	Proxmire
Byrd, Va.	Jordan, N.C.	Randolph
Byrd, W. Va.	Jordan, Idaho	Schweiker
Cannon	Kennedy	Scott
Church	Long	Smith, Maine
Cranston	Magnuson	Smith, Ill.
Dodd	Mansfield	Sparkman
Dole	Mathias	Spong
Dominick	McClellan	Stennis
Eagleton	McGovern	Talmadge
Fannin	McIntyre	Thurmond
Fulbright	Metcalf	Tydings
Gore	Miller	Williams, N.J.
Gravel	Mondale	Young, N. Dak.
Griffin	Montoya	Young, Ohio
Gurney	Moss	

NAYS—6

Bellmon	Goodell	Saxbe
Curtis	Javits	Williams, Del.

NOT VOTING—23

Allott	Ervin	Murphy
Anderson	Fong	Ribicoff
Case	Goldwater	Russell
Cook	Hatfield	Stevens
Cooper	Hollings	Symington
Cotton	McCarthy	Tower
Eastland	McGee	Yarborough
Ellender	Mundt	

So the report was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

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

The motion to lay on the table was agreed to.

CONTINUATION FOR 2 ADDITIONAL YEARS OF DUTY-FREE STATUS OF CERTAIN GIFTS BY MEMBERS OF THE ARMED FORCES SERVING IN COMBAT ZONES

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 15071.

The PRESIDING OFFICER laid before the Senate the bill (H.R. 15071) to continue for 2 additional years the duty-free status of certain gifts by members of the Armed Forces serving in combat zones which was read twice by its title.

Mr. LONG. Mr. President, I ask unanimous consent that the Senate proceed to its immediate consideration.

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

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

Mr. LONG. Mr. President, under present law we permit gifts of up to $50 in value to be sent to this country from abroad on a duty-free basis by members of the Armed Forces serving in combat zones. For others the duty-free limit is $10.

The duty-free status is scheduled to terminate on December 31 of this year. The purpose of H.R. 15071 is to continue for 2 additional years the duty-free status afforded these gifts sent by members of the Armed Forces to their loved ones in this country.

Mr. President, the bill will enable soldiers serving in Vietnam to send their Christmas presents back home without fear that if the gifts arrive late there would be a duty assessed. Without this legislation, a duty would be assessed upon gifts arriving after December 31. Our servicemen in Vietnam should not be penalized by a tariff on the gifts they send home. The bill assures that they will not be. The administration is strongly in favor of the bill.

Mr. WILLIAMS of Delaware. Mr. President, I join the chairman of the committee in expressing the hope that the Senate will pass this bill quickly, because I think it is very important so far as the boys in Vietnam are concerned.

Mr. LONG. I thank the Senator.

Mr. President, I ask unanimous consent that a more complete explanation of the bill from the report of the Committee on Ways and Means be included at this point in the RECORD.

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

PURPOSE

The purpose of H.R. 15071 is to extend for 2 years until December 31, 1971, the existing provision of the tariff schedules which permits members of the Armed Forces serving in combat zones to send from abroad on a duty-free basis gifts not exceeding $50 in retail value. This duty-free status is scheduled to terminate on December 31 of this year.

GENERAL STATEMENT

Existing customs law and regulations permit gifts sent from abroad to enter free of entry if they are valued at not more than $10 fair retail value in the country of shipment. However, the United States historically has made an exception to this $10 rule in the case of gifts from servicemen serving abroad in time of war. Under the exception, gifts from these servicemen valued up to $50 (determined on the basis of the fair retail value in the country of shipment) may enter this country duty free. The last exception of gifts from servicemen related to the Korean conflict and expired on July 1, 1961.

In recognition of the Vietnam conflict, Congress reenacted this $50 exception for servicemen on duty in combat zones in Public Law 89-368, effective March 15, 1966, on a temporary basis. The duty exemption for such gifts was further extended by Public Law 90-240 and will expire on December 31 of this year.

In view of the continuation of the Vietnam war, the committee is of the opinion that the continuation of the $50 gift exemption for an additional 2-year period is necessary.

No objection to the bill has been received by the committee, and the executive branch agencies have urged its enactment.

Your committee is unanimous in recommending enactment of H.R 15071.

The joint resolution was ordered to a third reading, was read the third time, and passed.

EXTENSION OF TIME FOR FILING THE ECONOMIC REPORT AND THE REPORT OF THE JOINT ECONOMIC COMMITTEE

Mr. PROXMIRE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on House Joint Resolution 1040.

The PRESIDING OFFICER laid before the Senate House Joint Resolution 1040, to extend the time for filing the economic report and the report of the Joint Economic Committee, which was read twice by its title.

Mr. PROXMIRE. I ask unanimous consent that the Senate proceed to its immediate consideration.

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

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. PROXMIRE. Mr. President, this resolution is necessary because the Senate is coming back on January 19. The President has to make his economic report on January 30. For this reason, in order to accommodate the President, the time is extended so that he can make his report on February 2. Ordinarily, the Joint Economic Committee must make its report on the President's report early in March. This is extended to April 2 to accommodate the Joint Economic Committee, so that it can accommodate itself to the later report by the President.

Mr. HRUSKA. Mr. President, may we have an explanation of the measure?

Mr. PROXMIRE. I just explained the measure. It has been cleared with the leadership on both sides.

Mr. HRUSKA. I did not get the name, the substance, or the subject.

Mr. PASTORE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. PROXMIRE. It is House Joint Resolution 1040. The resolution is necessary because the Senate is coming back on January 19, a little later than we usually do. Ordinarily, the President has to make his economic report, as I recall, in January 30. For this reason, in order to accommodate the President, the time is extended so that he can make his report on February 2. Ordinarily, the Joint Economic Committee must make its report on the President's report early in March. This is extended to April 2 to accommodate the Joint Economic Committee so that it can adjust itself to the later report by the President. That is all it does—just changes the dates.

The joint resolution (H.J. Res. 1040) was ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS

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.

RECESS

Mr. MANSFIELD. Mr. President, if no Member wishes to speak at this time, I ask unanimous consent that the Senate stand in recess until the hour of 7:30 p.m.

Mr. JAVITS. May we ask the Senator

whether he proposes to bring up the supplemental tonight?

Mr. MANSFIELD. Yes. It is not ready yet. Unless someone wishes to speak, I thought the best procedure would be to recess until 7:30 p.m.

Mr. JAVITS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Thereupon (at 7 o'clock and 4 minutes p.m.) the Senate took a recess until 7:30 p.m.

At 7:30 p.m. the Senate reassembled, and was called to order by the Presiding Officer (Mr. PASTORE in the chair).

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 (Mr. INOUYE in the chair). Without objection, it is so ordered.

RECESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 8:15 p.m.

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

(At 7:47 p.m., the Senate took a recess until 8:15 p.m. today.)

The Senate reconvened at 8:15 p.m. when called to order by the Presiding Officer (Mr. INOUYE in the chair).

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1075) to establish a national policy for the environment; to authorize studies, surveys, and research relating to ecological systems, natural resources, and the quality of the human environment; and to establish a Board of Environmental Quality Advisers.

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. 15209) making supplemental appropriations 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 4 and 27 to the bill and concurred therein; that the House receded from its disagreement to the amendments of the Senate numbered 8, 13, 19, 29, and 32 to the bill, and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate; and that the House insisted upon its disagreement to the amendment of the Senate numbered 33 to the bill.

ENROLLED JOINT RESOLUTION SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled joint resolution (H.J. Res. 764) to authorize appropriations for expenses of the President's Council on Youth Opportunity, and it was signed by the Acting President pro tempore.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tonight it stand in recess until 10 o'clock tomorrow morning.

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

Mr. MANSFIELD. Mr. President, I make that request with great reluctance.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS—RECESS

Mr. MANSFIELD. Mr. President, I have just been informed that the Senate conferees on the supplemental appropriation bill conference report will meet at 8:30 p.m. In view of that I ask unanimous consent that the Senate stand in recess until 8:45 p.m.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Thereupon (at 8 o'clock and 17 minutes p.m.) the Senate took a recess until 8:45 p.m.

The Senate reconvened at 8 o'clock and 45 minutes p.m. when called to order by the Presiding Officer (Mr. EAGLETON in the chair).

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

REVISION OF LAWS OF THE DISTRICT OF COLUMBIA ON JUVENILE COURT PROCEEDINGS

Mr. TYDINGS. Mr. President, today the Senate passed S. 2981, the last of President Nixon's crime bills for the District of Columbia. The Senate has now passed every Presidential crime bill for the District of Columbia submitted to us this year.

The District of Columbia Committee effort this year to expedite consideration of those bills reflects well, I think, on the industry of the committee members, who despite the administration's half-year delay in submitting its crime legislation to Congress, worked long and hard to assure Senate passage of the entire program this session.

Particular thanks is due to Senator MATHIAS, my colleague from Maryland, whose insights and experience in the field of law enforcement, including his long years of service on the House District of Columbia Committee and House Judiciary Committee, has greatly aided our committee in its proceedings on these crime bills this year.

As in the case of every crime bill, our work on S. 2981, juvenile court reform legislation, was conducted in total and complete cooperation with the Department of Justice. Evidence of that cooperation is contained in a letter I received from the Attorney General on September 22 of this year thanking the committee for its close cooperation with the Department, and in a letter I received this morning from the Deputy Attorney General Richard Kleindienst. I ask that copies of both letters be included in the RECORD as appendix A at the conclusion of these remarks.

S. 2981 represents the highwater mark of cooperation between the committee and the Department of Justice this year. Frankly, as it was submitted to the Congress less than 90 days ago, S. 2981 was a very bad bill.

It contained provisions which represented a retreat from modern thinking on juvenile court procedures.

In many respects it deviated from this administration's own official "Legislative Guidelines for Drafting Family and Juvenile Court Acts" which was published by the administration's own Division of Juvenile Delinquency Service on November 6. 1969. Likewise. it backtracked from the more enlightened practices among the States of this country in handling juveniles.

The bill was opposed in many significant respects by every witness who appeared at the committee hearings, except the Department itself. Many significant provisions of the legislation were opposed by the District of Columbia government, particularly by those officials whose responsibility brings them into day-to-day contact with juvenile delinquency problems.

Several principal features of the legislation were also publicly opposed by Senator MATHIAS in a letter he wrote to me. I ask that a copy of a letter which has previously been made public as appendix B be included at the conclusion of these remarks.

Despite these serious shortcomings in the administration bill, we were determined to produce a good bill acceptable to the community and effective in dealing with the growing problem of juvenile crime. To that end, committee staff held four roundtable sessions with staff attorneys from the Department of Justice and with numerous outside experts in juvenile crime and procedures.

Thereafter, committee staff worked extensively with representatives of the Department of Justice, going over the legislation line by line to find mutually acceptable solutions to the deficiencies of the bill.

We were interested in getting a good bill which could be passed in this session with the support of the Department of Justice.

We thought we had produced such a bill.

Compromises were necessary between views of some committee members and the Department of Justice in order to achieve such a bill. For example, as his letter indicates, Senator MATHIAS was opposed to the kind of automatic and unthinking transfer of juveniles for adult trial which the Department had orginally proposed. During the roundtable discussions, a compromise was reached between these two polar views. Under the bill as reported juveniles who have previously been adjudged delinquent will be tried as adults if they are charged with commission of any further serious misconduct. First offender children will not automatically be tried as adults. First offenders alleged to have committed any serious crime will be tried as adults, however, if the the judge determines they are not likely to be rehabilitated through juvenile correctional facilities.

The objection raised by many experts, including Senator MATHIAS, that jury trial for juveniles ought not to be eliminated as the Department had proposed also became the subject of compromise between the committee and the Department. Jury trial for juveniles is eliminated by the bill the committee reported. But the standard of proof by which the judge finds the fact of juvenile involvement in a delinquent act will be the standard of "reasonable doubt," which is the rule recommended by the administration's juvenile delinquency service.

These were typical reconciliations of divergent views produced through these roundtable discussions and subsequent intensive committee staff work with the Department of Justice.

We thought we had succeeded in producing a bill the Department would support and which commanded the respect and support of the experts who had been so severely critical of the Department's bill. Not until 10 minutes before our committee meeting last Wednesday did we learn that the Department might formally object to any part of the bill.

Our committee unanimously reported the bill the Senate passed today. We stood behind it and were prepared to defend it had any Senator wished to amend it.

In light of these events, it is with considerably dismay that I received today a letter which had been previously released to the papers from the Deputy Attorney General. That letter unfairly criticizes several provisions of the committee's bill.

I am disappointed in that letter. I think it would have been preferable, if the department really believes in the criticisms it makes, for them to find a Senator to offer these amendments and get a judgment of the Senate as to their merits.

My own view is that these criticisms are utterly without merit, are unrelated to the effectiveness of the bill, and would make no measurable impact on the juvenile crime problem.

Let us look briefly at the criticisms suggested in that letter.

TIME LIMITS

First is the question of the time limits the bill imposes in the disposition of juvenile court proceedings. The public has been rightly shocked time and time again by the unforgivable delays in juvenile court proceedings in the National Capital. The backlog of the juvenile court today is in excess of 3,000 cases. Disposition of many of these cases takes 18 months or more. The committee bill here and elsewhere has followed the recommendation of the administration's Juvenile Delinquency Service regarding the time limits for juvenile court proceedings. Those administrative recommendations are contained in the "Legislative Guide for Drafting Family and Juvenile Court Acts" published November 6 of this year. I ask that that document be reprinted in its entirety as appendix C at the conclusion of these remarks.

In fact, the deadlines for disposition of juvenile court cases imposed by this bill follow the model New York Family Court Act and are less restrictive on the court than the deadlines which the Juvenile Delinquency Service recommends.

These are the guidelines which the Department of Justice now calls unworkable.

The simple fact is that these guidelines have greatly improved the situation in New York, without detriment to the administration of the juvenile jurisdiction there.

What is unworkable, in my view, is the present intolerable situation, in which in the absence of time limits, cases grow stale and the possibility of rehabilitation is lost. The public is burdened with enormous expense engendered by the delays which have arisen because time limitations have not existed before now. The Department's suggestion that the answer to these delays lies in having lawyers move to dismiss cases for lack of a speedy trial is totally unrealistic. What we need to do is prevent delay and to get delinquent juveniles into correctional facilities, not to break cases through lawyer's motions months after the delays have arisen.

STANDARD OF PROOF

I have already discussed the Department's objection to the imposition of a "beyond a reasonable doubt" standard of proof for factfinding in certain juvenile cases.

I have indicated this was a compromise between some members of the committee who opposed elimination of jury trial and the Department which insisted that jury trials ought to be eliminated. The bill eliminates jury trials but adopts the Juvenile Delinquency Service recommendation that the "beyond a reasonable doubt" standard be used by the judge in factfinding.

Finally the Department objects in its letter to the provisions of the bill which deal with the question of when a juvenile should be tried as an adult. Again, as I have indicated, the committee version is a compromise between the administration view, to which everyone except the Department of Justice objected, and the view of the experts.

The Department wanted any juvenile over 16 alleged to have committed a serious offense to be tried automatically as an adult. The Department wanted to put the burden on a child aged 15, alleged to have committed a serious offense, to show why he should not be tried as an adult. These views had been rejected at least in 44 of the 50 States, by every expert appearing before the committee, including the District of Columbia government, by the model code approved by the Commission on Uniform State Laws, and by the administration's own Juvenile Delinquency Service.

The committee's compromise version gives more to the Department of Justice's view than would the experts, including the Juvenile Delinquency Service. The committee version says that any juvenile over the age of 16 who has been charged with a serious offense and who has been previously judged a delinquent, will be automatically tried as an adult. These are the juveniles who have had the benefit of juvenile treatment and who have not profited from it. These are the juveniles who apparently cannot be dealt with in the juvenile institutions. This includes fully two-thirds of the juveniles aged 16 or 17 who are charged with a serious offense. The bill also provides that in the case of a serious criminal offense by any first offender, 15 or over, the prosecutor may have the child tried as an adult provided he can show that the child cannot reasonably be rehabilitated in the juvenile correctional facilities.

The Department of Justice letter to me very inaccurately characterizes the waiver provision of the committee bill as a reenactment of existing law. In fact, the bill, by providing three very significant improvements in existing law, radically changes waiver for the District of Columbia. First, in comparison with existing law, new section 11–1104 sets forth in detail the procedure to be followed in waiver cases. There is no such provision in District of Columbia law today. Second, new section 11–1104 explicitly lays down factors for the judge to consider in ruling on the waiver motion, thereby eliminating much of the confusion and vagueness of existing law. Third, and most important, the bill overturns the case of *Kent* v. *United States*, 401 F. 2d 408 (D.C. Cir. 1968), by insisting that waiver is not a judgment that an adult criminal prosecution should be instituted against the juvenile. Instead, under the committee bill, waiver is a judgment that special juvenile disposition will not work in the particular case, and is not conditioned on any showing regarding the alternative. On a substantive level, in comparison with existing law, the proceeding under the committee bill becomes weighed in favor of waiver.

By not making the juvenile bear the burden on the Government's motion to waive, the committee has merely followed the familiar rule of law that he who moves must establish grounds therefor, and has adopted the precise recommendation of the administration's Juvenile Delinquency Service. I ask that the text of the existing law on waiver, section 11–1553 of the District of Co-

lumbia Code, along with the complementary opinion in the Kent case, be reprinted as appendix D at the conclusion of my remarks. I also ask that the text of section 5 of the act, S. 2981, along with the section of the committee report entitled "Transfer for Criminal Prosecution" be reprinted as appendix E.

Mr. President, the Senate has now passed every one of the bills the President has submitted on any subject relating to the District of Columbia this year. We as a committee have done our best to cooperate fully with the President in this legislative effort. Our proceedings with the administration have generally been characterized by full cooperation. I would certainly hope that that kind of cooperation which produced this year's legislative record can be continued in the coming year.

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

APPENDIX A

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., September 19, 1969.

Hon. JOSEPH D. TYDINGS,
U.S. Senate,
Washington, D.C.

DEAR JOE: I want you to know how much I personally appreciate the careful consideration that you and your staff have given to our proposal on court reorganization and on related issues in the District of Columbia. Don Santarelli has kept me posted on the several working sessions held with your staff. The expedition with which the matter was handled and the cooperative spirit with which the proposal was treated are very much appreciated.

I look forward to a continuation of this fruitful and cooperative relationship in our mutual endeavors to improve the administration of justice in D.C. and across the nation.

Sincerely,

JOHN N. MITCHELL.

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

Hon. JOSPEH D. TYDINGS,
U. S. Senate,
Washington, D.C.

DEAR SENATOR TYDINGS: The Senate District Committee has reported out of Committee S. 2981, a bill to provide a new code of juvenile procedure for the District of Columbia which was originally proposed to the Senate by the Department of Justice after extensive research, study, and consultation with experts in the field. Although the Department of Justice, for reasons discussed below, will not recommend opposition to Senate passage of S. 2981 as reporteed out, I consider it important to inform you of certain strong objections the Department has to what it otherwise considers a significant improvement in this area of the law.

S. 2981 as reported out by the Senate District Committee desirably extends to juveniles the necessary due process protections mandated by recent court decisions. Indeed, consistent with the Department's recommendations, it extends these protections beyond the minimum requirements of case law. The Department of Justice is seriously concerned, however, that S. 2981 as reported fails to protect society from the alarming increase in the commission of violent felonies by older, sophisticated juveniles.

The Department in S. 2981 recommended two complementary procedures for removing from the juvenile system those juveniles not rehabilitable by their majority and whose retention within the juvenile system would only interfere with the rehabilitation and treatment of other juveniles. First, it proposed lowering from 18 to 16 the juvenile age limit for those charged with certain, limited felonious crimes of violence. Second, for juveniles not falling within this category, the Department proposed a more effective waiver provision than provided by existing law, since under this existing law, as interpreted and applied by the local United States Court of Appeals, juveniles waived for adult prosecution decreased from 49 in fiscal 1965 to only 10 in fiscal 1969, despite the recent enormous increase in juvenile crime.

S. 2981 as reported eliminates the change in waiver proposed by the Department of Justice and thereby reverts to the totally unsatisfactory existing law. Moreover, though S. 2981 as reported does lower the age to 16 for certain crimes of violence, it requires that juveniles subject to it have previously been convinced of felonies. In our view, no 16 or 17 year old who commits such crimes as murder, forcible rape, or armed robbery, should be retained within the juvenile system. By reenacting existing waiver law and restricting the proposed lowering of age, it is the Department's view that S. 2981 as reported will not accord to law-abiding citizens of the District of Columbia the protection they deserve.

S. 2981 has at least two other serious shortcomings. It raises the burden of proof in delinquency cases to beyond a reasonable doubt. This standard is not followed by the vast majority of states, is contrary to several recent appellate decisions in this jurisdiction which require only proof by a preponderance of the evidence, and, in our view, this increased degree of proof will permit too many juveniles to avoid the nonpenal rehabilitative treatment afforded by the juvenile system. Surely, nothing could be more detrimental to a youngster's rehabilitation than his realization that he successfully "beat the rap". We strongly believe that the Department's recommendation for a standard of proof of "clear and convincing evidence" provides a more appropriate for balancing of the public and private interests involved.

Finally, S. 2981 as reported imposes fixed, strict time limitations on all juvenile proceedings, subject to extraordinary circumstances. Though we deplore the inordinate delays in the present system, we do not believe that imposition of strict, arbitrary time limits by statute, difficult to amend if found unworkable, is the proper solution. Instead, we adhere to our solution, which is to provide a more efficient procedure, a greatly increased number of judges, and a more knowledgeable and experienced defense bar, i.e., public defender. In the event this solution fails, juveniles will be protected from unreasonable delays by the traditional right to dismissal for lack of a speedy trial and will not again be encouraged to commit crimes by having charges dismissed against them if not tried within the overly strict time limitations contained in S. 2981 as reported.

Though S. 2981 as reported contains other deficiencies in addition to the very serious ones discussed above, the Department of Justice will not, as I indicated above, oppose its Senate passage. The Department is fully appreciative of the immediate and continuing attention which you have, throughout this Session of Congress, afforded its proposals concerning the serious crime problem in the District of Columbia. This crime problem is of such proportions that delay cannot be tolerated. Our opposition to Senate passage of S. 2981 as reported would cause delay. We prefer, therefore, not to oppose passage but instead to direct your attention to what we consider these serious shortcomings. Since a similar bill was introduced in the House of Representatives, I am sending to the Chairman of its District Committee a copy of this letter to you so that he may be informed of the Department's position with respect to S. 2981. Should the House enact our proposed legislation to revise juvenile procedure, it would be the Department's hope that the difficulties discussed above could be resolved in conference.

This position we are taking is the same we took concerning S. 2869, a bill revising criminal procedures in the District of Columbia. As you know, the Department had and still has very strong objections to certain provisions of S. 2869 as reported and passed. It is our view that the changes S. 2869 made in the Department's proposals concerning no-knock, wiretapping, thrice-convicted felons, resisting arrest, interlocutory appeals, and still other provisions will seriously undermine the Department's efforts to provide the District with an improved, fair, and effective procedure for coping with its crime problem. Despite our grave concern, we did not oppose passage but instead explained in detail the basis for our opposition to the members of the Senate District Committee staff, with the expectation that should there be a conference on these matters, our differences could be resolved.

Let me express once again the Department's appreciation for your continuing assistance in enacting legislation to improve the administration of both civil and criminal justice. The cooperation between your staff and the staff of my office has been most gratifying. Since we both have the common goal of eliminating the crime problem in the District of Columbia, I am confident that the legislation as finally enacted by the Congress will be appropriately directed to that end.

Sincerely,

RICHARD G. KLEINDIENST.

APPENDIX B

[Letter to Senator JOSEPH D. TYDINGS concerning the proposed District of Columbia Code.]

NOVEMBER 29, 1969.

Hon. JOSEPH D. TYDINGS,
Chairman, District of Columbia Committee,
U.S. Senate,
Washington, D.C.

DEAR JOE: I was disappointed to have missed the hearings on the District of Columbia Juvenile Code last week due to a case of the flu. As you know, I am greatly troubled by the problems of the Juvenile Court, and its demonstrated inability to put its own house in order. With the consideration of S. 2981 we now have a chance to improve the operation of the Juvenile Court, and I hope we make full use of this opportunity.

I believe you share my concern at some of the jurisdictional and procedural provisions in the bill as originally drafted. My overriding concern is to treat juveniles in most cases as a class apart from our older criminals, and at the same time provide them with the procedural protections of due process that the Supreme Court has made clear are required for all citizens. I would favor retaining of the present age level jurisdiction of 18, and at the same time clarifying the waiver provisions to properly transfer those hardened juvenile criminals under 18 over to the adult court. I favor retaining the jury trial in juvenile cases, for I feel that the jury system is fundamental to our notions of due process and substantial justice. I favor an absolute right to counsel, for I do not feel that a juvenile can intelligently waive this most important right.

I would like to propose in addition that we mandate in the bill a time limit within which disposition of a case must be made. After reviewing the record, I conclude that no other step we could take would successfully expedite cases through the Juvenile Court, given the tremendous backlog that has been allowed to accrue. The newly-adopted New York Juvenile Code requires that detention cases be heard within 30 days, those juveniles not detained, within 60. I have been told that the New York juvenile judges are much in

favor of such time limitations, and they are dealing with a substantially heavier caseload than the District. I would favor such a provision in S. 2981.

Finally, I would like to see a separate oversight organization established to review the activities of the Juvenile Court. I realize that under S. 2601, the D.C. court reorganization bill that has been passed by the Senate, an Advisory Committee on the Administration of Justice is created, and I am much in favor of this proposal. It does seem appropriate, however, to establish a subcommittee, whose special province would be overseeing the juvenile bench. There is statutory authority written into S. 2601 for the creation of such a subcommittee. This proposal was suggested at the hearings last week by Judge Ketcham, and it struck me as having considerable merit. The Juvenile Court has been lost in the shuffle, so to speak, for the past several decades, and I wish to obviate this possibility in the future by creating a commission whose sole function would be to oversee this most critical court.

As I stated last week, I feel we need to examine the entire juvenile correctional system together with the social supportive programs within the District. I plan to follow up S. 2981 with suggestions, and legislation where appropriate, to deal with the other important parameters in the juvenile area. S. 2981 should be but a beginning.

Sincerely,

CHARLES MCC. MATHIAS, Jr.,
U.S. Senator.

APPENDIX C

LEGISLATIVE GUIDE FOR DRAFTING: FAMILY AND JUVENILE COURT ACTS

(Prepared by William H. Sheridan, Assistant Director, Division of Juvenile Delinquency Service)

This guide was developed in response to requests for technical assistance in drafting family and juvenile court acts and increased interest throughout the country in juvenile and family courts. The guide is the result of research and study that included review of State laws and consultation with State officials engaged in drafting new legislation.

Some sections are similar to those in the Uniform Juvenile Court Act, developed in 1968 by the Commissioners on Uniform State Laws, with the Children's Bureau staff providing consultation. Some are similar to sections of the Standard Family Court Act developed in the late 1950's through the joint efforts of the National Council on Crime and Delinquency, the National Council of Juvenile Court Judges, and the Children's Bureau. Most sections, however, differ from the Uniform and Standard Acts in significant respects.

A number of events have occurred since the Children's Bureau publication, *Standards for Juvenile and Family Courts*, was developed in 1965. The President's Commission on Law Enforcement and Administration of Justice has released its report, *The Challenge of Crime in a Free Society;* the Children's Bureau in cooperation with the Department of Justice completed a national survey of juvenile courts, and the Bureau has made a number of State and local surveys of juvenile courts and probation services. Also, during this period, the Supreme Court and a number of State appellate courts have rendered decisions which have had a major effect upon juvenile courts. The evaluation of the information secured and the decisions or recommendations resulting from these activities, as well as the experience of using earlier drafts of this material in working with States, are reflected in this guide and account in part for its differences when contrasted with the Uniform and Standard Acts. In addition, a draft was sent to a number of leaders in the fields of law and behavioral sciences. Their comments and suggestions were carefully considered in preparing the final draft.

Certain aspects of the family court, such as judicial administration, organization, or structure, do not appear in any detail since these areas in particular will have to be related to the individual State structure.

Although the specific language in the guide relates to a family court, by deleting a portion of the jurisdictional section the material will serve as a guide in the drafting of juvenile court legislation.

The Children's Bureau wishes to acknowledge the assistance received from the numerous individuals who reviewed this material and made thoughtful and helpful suggestions. (Jule M. Sugarman, Acting Chief, Children's Bureau, Social and Rehabilitation Service)

SECTION 1. PURPOSES

This Act shall be interpreted and construed as to effectuate the following purposes:

(a) To preserve the unity of the family whenever possible and to provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this Act;

(b) Consistent with the protection of the public interest, to remove from children committing delinquent acts the consequences of criminal behavior, and to substitute therefor a program of supervision, care and rehabilitation;

(c) To achieve the foregoing purposes in a family environment whenever possible, separating the child from his parents only when necessary for his welfare or in the interests of public safety;

(d) To provide judicial procedures through which the provisions of this Act are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other legal rights recognized and enforced.

Comment

This section differs from the usual purpose clauses in that it adds two new dimensions: the protection of the public interest and the establishment of procedures which will assure due process and the constitutional rights of the parties. Society has a right to protect itself, and the court is an instrument used to implement this right.

"Offenses committed by young people should not be excused or condoned. The general public should be protected, and young people need to be held responsible for the consequences of their misconduct. The consequences of such misconduct, however, should result in individualized treatment authorized through the ordinary process of law." [1] This process must conform to certain principles to insure due process of law. These include:

1. The conditions under which the State is empowered to intervene in the upbringing of a child should be specifically and clearly delineated in the statutes. Whenever the State seeks to intervene, it should be required to show that those conditions do in fact exist with respect to a child and that its intervention is necessary to portect the child or the community, or both. The State should not be able to interfere with the rights of the parents with respect to their child and assume jurisdiction over such child on the generalized assumption that the child is in need of the care or protection of the State or merely because it disagrees with the parent as to the best course to pursue in rearing a child. Nor should it be authorized to take children from their parents merely because, in the estimation of probation officers and courts, the children can be better provided for and more wisely trained as wards of the State.

2. Both the child and his parents are entitled to know the bases on which the State seeks to intervene and on which it predicates its plan for the care and treatment of the child. They are equally entitled to rebut these bases either directly by questioning witnesses, or indirectly by presenting facts to the contrary. This means that rules of evidence calculated to assure proceedings in accordance with due process of law are applicable to children's cases. There should be an orderly presentation of credible facts in a manner calculated to protect the rights of all concerned. This principle also entails written findings of fact, some form of record of the hearing, the right to counsel, and the right to appeal. The court should give clear reasons for its decisions as to the finding with respect to allegations made and any order affecting the rights of the parents or the rights and status of the child. Any order for treatment, care, or protection does, in fact, affect these rights.

3. The statute should limit the court as to the type of disposition it may make, depending on the nature of the case, i.e., delinquency or neglect, rather than allow it unlimited discretion to make any disposition or to order any treatment that it may think advisable. It should, however, have complete discretion within the range of the specific dispositions authorized.

4. Certain procedural safeguards must be established for the protection of the rights of parents and children. Although parties in these proceedings may seldom may use of such safeguards, their availability is nonetheless important. They are required by due process of law and are important not only for the protection of rights but also to help insure that the decisions affecting the social planning for children are based on sound legal procedure and will not be disturbed at a later date on the basis that rights were denied.[2]

SECTION 2 DEFINITIONS

As used in this Act:

(a) "Child" means an individual who is:

(1) under the age of 18 years; or

(2) under 21 years of age and who committed an act of delinquency before reaching the age of 18 years.

(b) "Minor" means an individual who is under the age of 21 years.

(c) "Adult" means an individual 21 years of age or older.

(d) "Court" means the family division of the ( ) [3] as herein established.

(e) "Judge" means judge of the family division of the ( ).[3]

(f) "Detention care" means the temporary care of children in secure custody pending court disposition.

(g) "Shelter care" means the temporary care of children in physically unrestricting facilities pending court disposition.

(h) "Guardianship of the person of a minor" means the duty and authority to make important decisions in matters having a permanent effect on the life and development of the minor and to be concerned about his general welfare. It shall include but shall not necessarily be limited in either number or kind to:

(1) the authority to consent to marriage, to enlistment in the armed forces of the United States, or to major medical, psychiatric, and surgical treatment; to represent the minor in legal actions; to make other decisions concerning the minor of substantial legal significance;

(2) the authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order;

(3) the rights nd responsibilities of legal custody when guardianship of the person is exercised by the natural or adoptive parent, except where legal custody has been vested in another individual, agency or institution;

Footnotes at end of article.

(4) the authority to consent to the adoption of the minor and to make any other decision concerning him which his parents could make, when the rights of his parents, or only living parent, have been judicially terminated as provided for in the statutes governing termination of parental rights to facilitate adoption, or when both of his legal parents are deceased.

(i) "Legal custody" means a legal status created by court order which vests in a custodian the right to have physical custody of the child or minor and to determine where and with whom he shall live within the State; and the right and duty to protect, train, and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to the powers, rights, duties and responsibilities of the guardian of the person of the child and subject to any residual parental rights and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by the court.

(j) "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not necessarily limited to the right of visitation, consent to adoption, the right to determine religious affiliation, and the responsibility for support.

(k) "Commit" means to transfer custody.

(l) "Probation" means a legal status created by court order following an adjudication of delinquency, or in need of supervision, whereby a minor is permitted to remain in his home subject to supervision and return to the court for violation of probation at any time during the period of probation.

(m) "Protective supervision" means a legal status created by court order in neglect cases whereby the minor is permitted to remain in his home under supervision, subject to return to the court during the period of protective supervision.

(n) "Delinquent act" means an act designated a crime under the law of this State, or of another State if the act occurred in another State, or under Federal law. Traffic offenses shall not be deemed delinquent acts except for violations of ——.[4]

(o) "Delinquent child" means a child who has committed a delinquent act and is in need of care or rehabilitation.

(p) "Person in need of supervision" means a child who:

(1) being subject to compulsory school attendance, is habitually truant from school; or

(2) habitually disobeys the reasonable and lawful demands of his parents, guardian, or other custodian, and is ungovernable and beyond their control; or

(3) has committed an offense not classified as criminal or one applicable only to children, and

(4) in any of the foregoing, is in need of care or rehabilitation.

(q) "Neglected child" means a child:

(1) who has been abandoned by his parents, guardian, or other custodian;

(2) who is without proper parental care and control, or subsistence, education, medical or other care or control necessary for his well-being because of the faults or habits of his parents, guardian, or other custodian or their neglect or refusal, when able to do so, to provide them, or

(3) whose parents, guardian, or other custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; or

(4) who has been placed for care or adoption in violation of law.

(r) "Custodian" means a person, other than a parent or legal guardian, to whom legal custody of the child has been given by court order or who is acting in loco parentis.

(s) The singular includes the plural, the plural the singular, and the masculine the feminine, when consistent with the intent of this Act.

Comment

The definitions in this section are specific, yet they are more comprehensive than most sections on definitions. The purpose is not only to clarify the Act but also to clarify the rights, duties, and functions of the court, of agencies, and of the parent and child. In most States, at the present time, these terms are seldom defined with preciseness in the law. Therefore, many of these terms often have a different meaning to various parties involved even within the same jurisdiction—a factor which has caused conflict and confusion.

A number of States already include these definitions in whole or in part. Through such use, a common definition can be developed which will facilitate communication and understanding.[5]

The term "dependent" is not used. It is believed that the financial ability of parents to care for their children should not be a factor in removing them from their home.

Jurisdiction by the court over ordinary traffic violations has also been eliminated. For a variety of reasons, it is believed that such jurisdiction should be placed in the ordinary traffic court. This trend has been reflected in legislation enacted in recent years.

It should also be pointed out that before a child can be found to be delinquent or in need of supervision a second finding is necessary; namely, that he is in need of care or rehabilitation.

SECTION 3. THE FAMILY COURT DIVISION

The family court shall be a division of ( ).[6]

Comment

No attempt is made to provide for a specific organizational pattern for the court since State judicial systems differ from State to State. The family court should be a division of the highest court of general trial jurisdiction since an integrated court system is preferred rather than a proliferation of specialized courts. The establishment of the court at this level is also desirable since it is more likely to attract individuals of high judicial caliber and command the respect of the bar and the community.[7]

SECTION 4. REFEREES

(a) The ( )[8] may appoint one or more persons to serve as referees on a full- or part-time basis. They shall be members of the bar. Their compensation shall be fixed by the ( )[9] with the approval of the ( )[10] and paid out of the general revenue funds of the ( ).[11]

(b) Hearings shall be conducted only by a judge, if:

(1) the hearing is contested;

(2) the hearing is one to determine whether a case shall be transferred for criminal prosecution as provided in Section 31; or

(3) a party objects to the hearing being held by a referee.

Otherwise, the ( )[9] may direct that hearings in any case or class of cases shall be conducted in the first instance by a referee in the manner provided for by this Act.

(c) Upon the conclusion of a hearing before a referee, he shall transmit his findings and recommendations for disposition in writing to the judge. Prompt written notice of the findings and recommendations together with copies thereof shall be given to the parties to the proceeding. The written notice shall also inform them of the right to a rehearing before the judge.

(d) A rehearing may be ordered by the judge at any time and shall be ordered if any party files a written request therefor within 3 days after the referee's written notice. If a hearing de novo is not requested by any party or ordered by the court, the hearing shall be upon the same evidence heard by the referee, provided that new evidence may be admitted in the discretion of the judge.

(e) If a hearing before the judge is not requested or ordered or the right thereto is waived, the findings and recommendations of the referee, when confirmed by an order of the judge, shall become the decree of the court.

Comment

It is not intended that referees be used as substitutes where additional judges are needed. However, they serve a purpose where the judicial load is to great for one judge but not great enough for two judges. Also, their use on a part-time basis in large circuits may facilitate the administration of juvenile justice. As judicial officers, they should be members of the bar. They should not carry any probation duties—supervisory or otherwise—since this could create a conflict of interest in discharging the duties of a referee in cases where they were active in another capacity.

SECTION 5. PROBATION SERVICE

The ( )[12] shall establish a statewide program of probation and other casework and clinical services to serve the court, the cost thereof to be paid out of the general revenue funds of the State.

All employees shall be selected, appointed, and promoted through a State merit system.

Comment

It is strongly recommended that probation services be established on a statewide basis as part of the executive branch of government. Continuity of responsibility and treatment is attained when service and care for delinquent children are in a single agency. Such a system also will provide continuity of administration and will promote a more equitable distribution of services in terms of both quality and quantity, as well as uniformity of procedure. These characteristics are presently lacking in most States because the localities have responsibility for the services and they are often not in a position to provide them adequately.

Administration of probation services by the executive branch of government will help to clarify the role of the probation officer as a professional without prosecutorial functions or subject to judicial control. Also, for legal as well as ethical reasons, the duties of the judge should not involve the administration of the probation services, the detention home, other foster care facilities or other casework or clinical services necessary for study or treatment. The judicial branch of government is called upon to check or pass upon the legality of the actions of the executive or administrative system. This calls for an independent and impartial judiciary. When the judge is also the administrator, this is not possible since he is placed in the position of judging his own actions. This does not mean that the agency serving the court should operate completely independent of the judiciary. An effective working relationship must be established. Provision for the involvement of the judiciary in the development of policy and probation practice procedures should be made. This could be accomplished through the use of a policy advisory committee which would include judges as well as representatives of the behavioral sciences. Individual judges should also have a role in the selection of staff assigned to their particular court.

For further discussion of the administration of probation services, see "New Directions for the Juvenile Court," by William H. Sheridan, in *Federal Probation*, June 1967, p. 15; "Structuring Services for Delinquent Children and Youth," by William H. Sheridan, in *Federal Probation*, September 1967, p. 51; "Unraveling Administrative Organization of State Juvenile Services," by Maurice

Footnotes at end of article.

A. Harmon, in *Crime and Delinquency*, July 1967, p. 433; and "Juvenile Delinquency and Youth Crime," a Task Force Report of the President's Commission on Law Enforcement and Administration of Justice, 1967, pp. 85–90.

SECTION 6. POWERS AND DUTIES OF PROBATION OFFICERS AND SOCIAL SERVICES PERSONNEL

(a) For the purpose of carrying out the objectives and provisions of this Act, and subject to the limitations of this Act, probation and social services personnel have the power and duty to:

(1) receive and examine complaints and allegations that a child is neglected, delinquent, or in need of supervision for the purpose of considering the commencement of proceedings under this Act;

(2) make appropriate referrals of cases presented to him as such officer, to other private or public agencies of the community where their assistance appears to be needed or desirable;

(3) make predisposition studies and submit reports and recommendations to the court as required by this Act;

(4) supervise and assist a child placed on probation or under his supervision by order of the court;

(5) provide marital and family counseling:

(6) perform such other functions as are designated by this Act or by rules of court pursuant thereto.

(b) For the purposes of this Act, a probation officer shall have the power to take into custody and place in temporary care a child who is under his supervision as a delinquent or neglected child, or a child in need of supervision when the probation officer has reasonable cause to believe that the child has violated the conditions of his probation or that he may flee from the jurisdiction of the court. A probation officer does not have the powers of a law enforcement officer nor may he sign a petition under thiis Act with respect to a person who is not on probation or otherwise under his supervision.

(c) If a probation officer takes a child into custody, he shall proceed as provided for in Sections 23 and 39.

Comment

This section is included not only to provide for the authority of the department providing probation and family counseling services but also to clarify the role of such services. The probation officer should not have broad law enforcement powers, nor should he take on the prosecutorial functions. His authority to initiate court action should be specifically limited to children already on probation or otherwise under his supervision. He should not be given functions which are in conflict with each other (see "The Gault Decision and Probation Services," by William H. Sheridan, 43 *Indiana Law Journal* 656, 1968).

SECTION 7. JURISDICTION: CHILDREN

(a) The family court shall have exclusive original jurisdiction of the following proceedings, which shall be governed by the provisions of this Act:

(1) proceedings in which a child is alleged to be delinquent or neglected or a person in need of supervision.

(b) The family court shall also have exclusive original jurisdiction of the following proceedings, which shall be governed by the laws relating thereto without regard to the other provisions of this Act:

(1) the termination of parental rights;

(2) proceedings for the adoption of an individual of any age;

(3) proceedings under the Interstate Compact on Juveniles;

(4) proceedings under the Interstate Compact on the Placement of Children;

(5) proceedings to determine the custody or to appoint a legal custodian or a guardian of the person of a minor; and

(6) proceedings for the commitment of a mentally retarded or mentally ill minor.

Comment

The jurisdiction of juvenile and family courts varies from State to State. This section, when coupled with subsection (a) of Section 10, provides the recommended basic jurisdiction of the juvenile court. When coupled with all of Section 10, it provides for the basic jurisdiction of a family court. Proceedings for the granting of judicial consent to marriage and enlistment in the armed forces are omitted as this should be the function of the guardian. Where no effective guardianship of the person exists, a guardian should be appointed.

SECTION 8. TRANSFER FROM OTHER COURTS

(a) If it appears to a court during the pendency of a criminal charge and prior to the entry of a judgment of conviction and order of sentence, that a minor defendant was under the age of 18 years at the time of the alleged offense, the court shall forthwith transfer the case, together with all papers and documents connected therewith, to the family court. All action taken by the court prior to transfer of the case shall be deemed null and void unless the family court transfers under Section 31.

(b) If at the time of the alleged offense the minor charged was under the age of 18 years but this fact is not discovered by the court until after entry of a judgment of conviction and order of sentence, the court may elect to retain jurisdiction and permit the conviction and order of sentence, the court may elect to retain jurisdiction and permit the conviction and sentence to stand or dispose of the case as provided for in Section 34, or transfer the case to the family court.

Comment

This section, with the exception of subsection (b), is fairly common. Subsection (b) is included in order to discourage deception with respect to age. This will usually involve youth who are in their 17th or 18th year and is intended to prevent delay of adjudication and disposition. It permits flexibility in that the court has three options: sentence the youth as an adult; exercise the power of the family court and dispose of the case as provided for in this Act, or transfer the case to the family court as provided in subsection (a).

SECTION 9. RETENTION OF JURISDICTION

For the purposes of this Act, jurisdiction obtained by the court in the case of a child shall be retained by it until he becomes 21 years of age, unless terminated prior thereto. This section does not affect the jurisdiction of other courts over offenses committed by the child after he reaches the age of 18 years.

If a minor already under jurisdiction of the court is convicted in a criminal court of a crime committed after the age of 18, the conviction shall terminate the jurisdiction of the family court.

SECTION 10. JURISDICTION: MINORS; ADULTS

The court shall have exclusive original jurisdiction:

(a) To try any offense committed against a child by his parent, guardian, or any other minor or adult having his legal or physical custody;

(b) To try any minor or adult charged with:

(1) deserting, abandoning, or failing to provide support for any person in violation of law;

(2) an offense, other than a felony, committed by one spouse against the other.

In any case within subsections (a) or (b) (1) or (b) (2), the court in its discretion may transfer the proceedings to a court which has criminal jurisdiction of the offense charged.

(c) In proceedings for support, alimony, divorce, separation and annulment, and to establish paternity of a child born out of wedlock;

(d) In proceedings under the Uniform Reciprocal Enforcement of Support Act;

(e) In proceedings to commit an adult found to be mentally retarded or mentally ill.

Comment

This section is similar to the Standard Family Court Act.[13] Subsection (a) should be included in the basic jurisdiction of the juvenile court over adults. Subsections (b), (c), (d), and (e) should be included in family court jurisdiction.

Subsection (a) is included in order to coordinate the sentence in the case of the adult with the disposition of the child. This is necessary because of the continuing relationship involved. Such offenses, when committed by persons other than the parent, guardian, or other custodian, should be prosecuted in the criminal court.[14] For an alternate procedure, see appendix.

SECTION 11. VENUE

Proceedings under this Act shall be commenced in the county where the child resides. If delinquency or in need of supervision is alleged, they may also be commenced in the county where the acts constituting the alleged delinquency or in need of supervision occurred. If neglect is alleged, they may also be brought in the county where the child is present when the proceedings are commenced.

SECTION 12. TRANSFER TO ANOTHER FAMILY COURT WITHIN THE STATE

If the child resides in a county of the State and the proceeding is commenced in a court of another county, that court, on its own motion or a motion of a party made at any time prior to final disposition, may transfer the proceeding to the county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. Like transfer may be made if the residence of the child changes pending the proceeding. The proceeding shall be so transferred if the child has been adjudicated delinquent or in need of supervision and other proceedings involving the child are pending in the family court of the county of his residence.

Certified copies of all legal and social records pertaining to the case shall accompany the transfer.

Comment

This is a standard provision and provides for intrastate cooperation.

SECTION 13. PETITION—PRELIMINARY INQUIRY—AUTHORIZATION TO FILE

(a) Complaints alleging delinquency, neglect, or in need of supervision shall be referred to the intake office of probation services. The intake office shall conduct a preliminary inquiry to determine whether the best interests of the child or of the public require that a petition be filed. If judicial action appears necessary, the intake office may recommend the filing of a petition, provided, however, that all petitions shall be prepared and countersigned by the ( ) before they are filed with the court. Decisions of the ( )[15] on whether to file a petition shall be final.

(b) If the intake office refuses to authorize a petition, the complainant in such situations shall be notified by the intake office of his right to review of his complaint by the ( ).[15] The ( ),[15] upon request of the complainant, shall review the facts presented by the complainant and after consultation with the intake office shall authorize, countersign, and file the petition with the court when he believes such action is necessary to protect the community or the interests of the child.

Footnotes at end of article.

(c) When a child is in detention or shelter care and the filing of a petition is not approved by the ( ),[15] the child shall be immediately released.

(d) The intake office of probation services shall have the authority to refer the case to an appropriate public or private agency or to conduct conferences for the purposes of affecting adjustments or agreements which will obviate the necessity for filing a petition. During such inquiries, a party may not be compelled to appear at any conference, to produce any papers, or to visit any place. Such inquiries and conferences shall not extend for a period beyond 30 days from the date the complaint was made.

(e) On motion by or in behalf of a child, a petition alleging delinquency or need of supervision shall be dismissed with prejudice if it was not filed within 10 days from the date the complaint was referred to the intake office of probation services.

Comment

This section differs significantly from both the Uniform Juvenile Court Act[16] and the Standard Act. It requires that a preliminary inquiry be made by the probation services in delinquency, neglect, or need of supervision cases. It also requires that all petitions be countersigned and filed by the appropriate prosecuting official in the jurisdiction. This is necessary for several reasons. First, he is the person with the expertise concerning the legal sufficiency of the petition. Secondly, under Section 14, he is also the person responsible for conducting the proceeding and for representing the State. It is not the intention, however, to limit the prosecuting officials's review to the legal sufficiency of the complaint. He should also be concerned with the need to protect the child and the community. Studies have shown that the highly therapeutic approach of some intake personnel has resulted in the filing of petitions merely on the basis that the child needed service—service which could be provided by community agencies without court intervention. On the other hand, studies have also shown that petitions have been denied in cases of serious offenses where there was reason to believe that court action was necessary to protect the community.

The role of the prosecuting official, as provided in this section, is also necessary since it relieves the judge of the prosecutorial function, which conflicts with his role as an impartial arbitrator. In the absence of a prosecutor to conduct the case, the probation officer is often cast in this role, which conflicts with his role in assisting the court to arrive at a disposition which is in the interest of the child.

The section also provides for a check on the probation services in that the complainant can appeal to the prosecuting official for a review of intake's decision when authorization of a petition is denied. The appropriate prosecuting official may, after a review of the case, prepare the petition, countersign, and file it with the court when he believes such action is necessary to protect the community or the interests of the child.

This Act does not include a section on informal disposition in terms of a continuing service. This section does permit disposition at the point of intake after conferences, or referral to other community agencies. It also provides that if a petition is not filed within 10 days after the receipt of the complaint by the intake services, the petition is subject to dismissal with prejudice. This is included in order to expedite the intake process as well as to discourage the use of so-called unofficial probation and other services of a continuing nature without properly invoking the jurisdiction of the court. Such services can be provided, however, without a finding by a consent decree pursuant to Section 33.

Footnotes at end of article.

SECTION 14. PETITION—WHO MAY SIGN—CONTENT

(a) Subject to subsection (b) of this section, and except as provided in Section 6, petitions intiating court action and probation revocation petitions may be signed by any person who has knowledge of the facts alleged or is informed of them and believes that they are true.

(b) A minor in need of supervision petition may be signed only by one of the following persons: a representative of a public or nongovernmental agency licensed or authorized to provide care or supervision of children; a representative of a public or private agency providing social service for families; a school official; or a law enforcement officer.

(c) The ( )[17] shall represent the petitioner in all proceedings where the petition alleges delinquency, neglect, or in need of supervision.

(d) Petitions shall be entitled. "In the Matter of ————, a child," and shall be verified by the person who signs it.

(e) Petitions shall set forth with specificity:

(1) the facts whch bring the child within the provisions of subsection (a) (1) of Section 7, together with a statement when delinquency or in need of supervision is alleged that the child is in need of supervision, care, or rehabilitation;

(2) the name, birth date, and residence address of the child;

(3) the names and residence addresses of his parents, guardian, or custodian, and spouse if any. If neither of his parents, guardian or custodian resides or can be found within the State, or if their residence addresses are unknown, the name of any known adult relative residing within the State, or, if there be none, the known adult relative residing nearest to the court;

(4) whether the child is in custody, and, if so, the place of detention and the time he was taken into custody; and

(5) when any of the facts herein required are not known, the petition shall so state.

Comment

This section does not permit the filing of petitions alleging in need of supervision by parents on the theory that such cases should be routed through another community agency for service in order to divert these children from the correctional system.

Responsibility is also placed upon the appropriate prosecuting official's office to conduct the proceedings where the petition alleges delinquency, neglect or need of supervision. This is a function appropriate to the function of the prosecuting official since the State is the real party to the proceedings. As pointed out earlier, it also relieves both the judge and the probation officer of the prosecutorial role.

It should also be noted that in this section, as well as in Section 13, the signing of a petition and the filing of a petition are separate and distinct acts. In a number of jurisdictions, the term "filing" has been used as including the act of signing, which has led to some confusion.

SECTION 15. SUMMONS

(a) After a petition has been filed, the court shall direct the issuance of summonses, one directed to the child, if he is 14 or more years of age or is alleged to be delinquent or in need of supervision, and another to the parents, guardian, or other custodian, and such other persons as appear to the court to be proper or necessary parties to the proceedings, requiring them to appear personally before the court at the time fixed to answer the allegations of the petition. Where the custodian is summoned, the parent or guardian or both shall also be served with a summons. If the child is married, the spouse shall also be served with a summons.

(b) The summons shall advise the parties of their right to counsel as provided in Section 25. A copy of the petition shall be attached to each summons.

(c) The judge may endorse upon the summons an order directing the parents, guardian, or other custodian having the custody or control of the child to bring the child to the hearing.

(d) If it appears, from affidavit or sworn statement presented to the judge, that the child needs to be placed in detention or shelter care pursuant to Section 20, the judge may endorse upon the summons an order that an officer serving the summons shall at once take the child into custody and take him to the place of detention or shelter care designated by rules of court.

(e) A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.

Comment

Subsection (b) provides for notice of the right to counsel and also provides that a copy of the petition be attached to each summons. These two requirements are in conformity with the Gault decision (In re Gault, 387 U.S. 1, 1967). Otherwise, the section is a common one.

SECTION 16. SERVICE OF SUMMONS

(a) If a party to be served with a summons can be found within the State, the summons shall be served upon him personally at least 24 hours before the hearing. If he is within the State and cannot be found, but his address is known or can with reasonable diligence be ascertained, the summons may be served upon him by mailing a copy thereof by certified mail at least 5 days before the hearing. If he is without the State but he can be found or his address is known, or can with reasonable diligence be ascertained, service of the summons may be made either by delivering a copy thereof to him personally or by mailing a copy thereof to him by certified mail.

If after reasonable effort he cannot be found or his post office address ascertained, whether he is within or without a State, the court may order service of the summons upon him by publication in accordance with the provisions of ( )[18] in which event the hearing shall not be less than 5 days after the date of last publication.

(b) Service of summons may be made under the direction of the court by any law enforcement officer or other suitable person.

(c) The court may authorize the payment from ( )[19] funds of the costs of service and of necessary travel expenses incurred by persons summoned or otherwise required to appear at the hearing.

SECTION 17. TIME LIMITATIONS

(a) On motion by or in behalf of a child, a delinquency or need of supervision petition shall be dismissed with prejudice where the allegations of the petition are not determined by an admission, or a hearing on the allegations of the petition not commenced within:

(1) 10 days from the date the petition is filed where a child in custody is denied unconditional release at his detention hearing;

(2) 20 days from the date the petition is filed where a child, once in custody for the offense charged in the petition or an offense based upon the same conduct, is released at or before his detention hearing;

(3) 20 days from the date the petition is filed where the child was never in custody for the offense charged in the petition or an offense based upon the same conduct; or

(4) within either 10 days or 20 days from

the time the child was taken into custody as provided in subsections (a)(1) or (a)(2) in cases where the summons directs that the child be taken into custody by the officer serving the summons, and the child has not previously been in custody for the offense charged in the petition or an offense based upon the same conduct.

(b) The following periods shall be excluded in computing the time for a hearing on the allegations in the petition:

(1) The period of delay resulting from other proceedings concerning the child, including but not limited to an examination and hearing related to mental health, prehearing motions, waiver motions and hearings on other matters.

(2) The period of delay resulting from a continuance granted at the request or with the consent of the child and his counsel.

(3) The period of delay resulting from a continuance granted at the request of the ( ) [20] if the continuance is granted because of the unavailability of evidence material to his case, when the ( ) [20] has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will be available at the later date; or the continuance is granted to allow the ( ) [20] additional time to prepare his case and additional time is justified because of the exceptional circumstances of the case.

(4) The period of delay resulting from the imposition of a consent decree.

(5) The period of delay resulting from the absence or unavailability of the child.

(6) A reasonable period of delay when the child is joined for a hearing with another child as to whom the time for a hearing has not run and there is good cause for not hearing the cases separately. In all other cases, the child's case shall be separated from the hearing of another child alleged to have participated in the same offense so that a hearing may be held within the time limits applicable to him.

(7) Other periods of delay for good cause.

Comment

This is a new section and is designed to speed up court processes and to prevent long delays before hearings, particularly in those cases where a child is held in detention or shelter care. Long delays often occur before final disposition. Those are often due to lack of resources and facilities. It is suggested that a time limitation be established for final disposition that allows for flexibility in order to meet this problem. It should also be noted that the very nature of this section will require the court and probation services to record certain information which studies have shown to be unavailable in many jurisdictions.

This section is patterned after the Minimum Standards for Criminal Justice Relating to Speedy Trial, which have been promulgated by the American Bar Association.

SECTION 18. TAKING INTO CUSTODY

A child may be taken into custody:

(1) Pursuant to the order of the court under Sections 15 and 21;

(2) For a delinquent act pursuant to the laws of arrest;

(3) By a law enforcement officer when he has reasonable grounds to believe that the child is suffering from illness or injury or in immediate danger from his surroundings, and that his removal is necessary; and

(4) By a law enforcement officer when he has reasonable grounds to believe that the child has run away from his parents, guardian, or other custodian.

Comment

In the past, statutes have provided that taking into custody shall not be deemed an arrest. However, for all practical purposes, this has been a legal fiction since the child is being held in involuntary custody. It is particularly important that this be recognized in the light of recent decisions and also in order to facilitate the development of appropriate guidelines for law enforcement practices. Therefore, under this section, the taking into custody of a child for a delinquent act is an arrest.

SECTION 19. DETENTION AND SHELTER CARE FACILITIES

(a) The ( ) [21] shall develop a statewide plan for the establishment of regional detention facilities for children referred to or under the jurisdiction of the court, and necessary transportation. To implement this plan, the ( ) [21] may construct and operate the facilities or may contract for the use of detention facilities established or operated by local authorities.

(b) The ( ) [21] shall promulgate standards for all detention facilities, including location, design, construction, equipment, care, program, personnel, and clinical services. The ( ) [21] may establish a system of subsidies for the construction and operation, by local authority, of detention facilities meeting the standards established.

(c) To determine whether the standards are being met, at least once a year, the ( ) [21] shall inspect all facilities in which children are detained and shall require reports from them. By order approved by the ( ) [23] the director may prohibit the detention of children in any place which does not meet its standards. Copies of such orders shall be served upon the person in charge of the detention facility and filed with the family court.

(d) The ( ) [23] shall develop a statewide program for the provision of shelter care facilities for children referred to or under the jurisdiction of the court. When such a program involves the use of local public or nongovernmental facilities, the duties and responsibilities of ( ) [23] with respect to such facilities shall include those provided for in subsections (b) and (c).

(e) All facilities used for detention not under the administration of ( ) [21] shall submit a yearly report to ( ) [21] the substance and form of which shall be determined by ( ).[21]

Comment

Ordinarily this section should be part of the legislation providing for the functions and authority of the State executive agency charged with the administration of the State's program for the care and treatment of delinquency. It should be included in the court statute if not provided elsewhere. It has been recognized for some time that if children are to be kept out of jail, a statewide system of detention and shelter care must be developed. Most local jurisdictions will find it impossible from an economic or program standpoint to build and operate their own detention home.[24]

Also the administration of such a program is not appropriate to the judicial role. There is no more logic for a family or juvenile court judge to be administratively responsible for the operation of a detention or shelter care program than for a criminal court judge to be administratively responsible for the operation of jails or other correctional institutions for adults.

SECTION 20. CRITERIA FOR DETAINING CHILDREN

(a) Unless ordered by the court pursuant to the provisions of this Act, a child taken into custody shall not be placed or retained in detention or shelter care prior to the court's disposition unless detention or shelter care is required:

(1) to protect the person or property of others or of the child; or

(2) because he has no parent, guardian, custodian, or other person able to provide supervision and care for him; or

(3) to secure his presence at the next hearing.

(b) The criteria for detention or placement in shelter care in subsection (a) shall govern the decision of all persons responsible for determining whether detention of shelter care is warranted prior to the court's disposition.

Comment

This section is new and somewhat similar to the one in the Uniform Act. It is designed to reduce the number of children in detention by the establishment of specific criteria for use by law enforcement officers and probation personnel. If it cannot be shown that a child's situation falls within the criteria established, he should be released.

SECTION 21. RELEASE OR DELIVERY TO COURT

(a) A person taking a child into custody shall, with all reasonable speed:

(1) release the child to his parents, guardian, or custodian and issue verbal counsel or warning as may be appropriate;

(2) release the child to his parents, guardian, or custodian upon their promise to bring the child before the court when requested by the court, unless his placement in detention or shelter care appears required as provided in Section 20; or

(3) bring the child to the intake office of probation services or deliver the child to a place of detention or shelter care designated by the court or to a medical facility if the child is believed to be suffering from a serious physical condition or illness which requires either prompt treatment or prompt diagnosis for evidentiary purposes, and promptly give written notice thereof, together with a statement of the reason for taking the child into custody, to a parent, guardian, or other custodian and to the court.

Any questioning of the child necessary to comply with subsection (a)(2) shall conform to the place, procedures and conditions prescribed by this Act and rules of court pursuant thereto.

(b) When a child is delivered to the intake office of probation services or to a place of detention or shelter care designated by the court, an intake officer of probation services shall, prior to admitting the child for care, review the need for detention or shelter care and shall release the child unless detention or shelter care is required under Section 20 or has been ordered by the court pursuant to Section 15.

(c) If a parent, guardian, or other custodian fails, when requested, to bring the child before the court as provided in subsection (a)(2), the court may issue its warrant directing that the child be taken into custody and brought before the court.

Comment

This section is similar to the one in the Uniform Act. It provides that a child whose situation falls within the provisions of Section 20 shall be brought to the intake office of probation services or delivered to a place of detention or shelter care designated by the court. Some questioning of the child is obviously necessary to determine whether the criteria set forth in Section 20 exist. This inquiry shall conform to the place, procedures and conditions prescribed by the Act and Rules of Court. It also requires that the intake office of probation services review the need for detention or shelter care *prior* to admitting the child for care.

SECTION 22. PLACE OF DETENTION OR SHELTER

(a) A child alleged to be delinquent or in need of supervision may be detained, pending court hearing, in the following places:

(1) a licensed foster home or a home otherwise authorized by law to provide such care;

(2) a facility operated by a licensed child welfare agency;

(3) a detention home for children alleged

Footnotes at end of article.

to be delinquent or in need of supervision provided for in Section 19; or

(4) any other suitable place designated by the court subject to the provisions of Section 19 of this Act, provided that no place of detention or shelter care may be designated if it is a facility to which children adjudicated delinquent or in need of supervision may be committed under this Act.

(b) A child may be detained in a jail or other facility for the detention of adults only if the facility in subsection (a)(3) is unavailable; the detention is in a room separate and removed from those adults; adequate supervision is provided; the facility is approved under the provisions of Section 19; and the court finds that public safety and protection reasonably require such detention. The use of a jail or other facility for the detention of adults may not continue beyond ( ).[25]

(c) The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be under the age of 18 years, is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

(d) When a case is transferred to another court for criminal prosecution, the child shall be transferred to the appropriate officer or detention facility in accordance with the law governing the detention of such person charged with crime.

(e) A child alleged to be neglected may be detained or placed in facilities for shelter care enumerated in subsections (a)(1), (a)(2), and (a)(4), and shall not be detained in a jail or other facility intended or used for the detention of adults charged with criminal offenses or for children alleged to be delinquent.

Comment

This section places protections around the use of detention and prohibits jail detention of any kind where a detention home for children is available. It also prohibits the placing of neglected children in a facility with delinquent children or children in need of supervision or in detention facilities for adults. It also prohibits the detaining of delinquent children in institutions for the long-time treatment of children adjudicated to be delinquent. In order to expedite the development of a statewide program, the use of a jail or other facility for the detention of adults should be prohibited after a certain date timed so as to give the State agency sufficient time to establish appropriate facilities.

SECTION 23. RELEASE FROM DETENTION OR SHELTER CARE—HEARING—CONDITIONS OF RELEASE

(a) When a child is not released as provided in Section 21:

(1) a petition shall be filed within 24 hours, excluding Sundays and legal holidays; and

(2) a detention or shelter care hearing shall be held within 24 hours (excluding Sundays and legal holidays) from the time of filing the petition to determine whether continued detention or shelter care is required pursuant to Section 20.

(b) Notice of the detention or shelter care hearing, either oral or written, stating the time, place, and purpose of the hearing shall be given to the parent, guardian, or custodian if they can be found and to the child if delinquency or need of supervision is alleged.

(c) At the commencement of the detention or shelter care hearing, the judge shall advise the parties of the right to counsel provided in Section 25, and shall appoint counsel as required. The parties shall be informed of the child's right to remain silent with respect to any allegation of delinquency or need of supervision. They shall also be informed of the contents of the petition, and shall be given an opportunity to admit or deny the petition's allegations.

(d) When the judge finds that a child's full-time detention or shelter care is not required, the court shall order his release, and in so doing, may impose one or more of the following conditions singly or in combination:

(1) place the child in the custody of a parent, guardian, or custodian under their supervision, or under the supervision of an organization agreeing to supervise him;

(2) place restrictions on the child's travel, association, or place of abode during the period of his release; or

(3) impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in Section 20, including a condition requiring that the child return to custody as required.

(e) An order releasing a child on any conditions specified in this section may at any time be amended to impose additional or different conditions of release or to return the child to custody for failure to conform to the conditions originally imposed.

(f) All relevant and material evidence helpful in determining the need for detention or shelter care may be admitted by the court even though not competent in a hearing on the petition.

(g) If the child is not released and a parent, guardian or other custodian has not been notified and did not appear or waive appearance at the hearing, upon his filing his affidavit stating these facts, the court shall rehear the matter without unnecessary delay.

Comment

This section differs significantly from both the Uniform Act and the Standard Act. It provides that if a child is not released, a petition shall be signed within 24 hours, excluding Sundays and holidays. This provision is based on the theory that if the situation is serious enough to detain the child, it will generally be found serious enough to require the signing of a petition. Whether the petition will actually be filed will be subject to final approval by the appropriate prosecuting official's office.

This section also requires a hearing on detention or shelter care be held forthwith upon the filing of the petition. If the child's situation does not fall within the criteria provided for in Section 20, he must be released; however, the court may impose one or more of several conditions at the time of release.

SECTION 24. SUBPENA

Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents or other tangible objects at any hearing.

SECTION 25. RIGHT TO COUNSEL

(a) In delinquency and in need of supervision cases, a child and his parents, guardian, or custodian shall be advised by the court or its representative that the child shall be represented by counsel at all stages of the proceedings. If counsel is not retained for the child, or if it does not appear that counsel will be retained, counsel shall be appointed for the child.

(b) In neglect cases, the parents, guardian, or custodian shall be informed of their right to be represented by counsel and, upon request, counsel shall be appointed where the parties are unable, for financial reasons, to retain their own, or where, in the court's discretion, appointment of counsel is required in the interests of justice.

Comment

This section provides for a non-waiverable right to counsel in delinquency cases and in need of supervision cases. In order to expedite the administration of juvenile justice, it will be necessary to have counsel readily available. It is believed that the public defender system and the law guardian system as now operating in New York State are probably the most effective means of accomplishing this goal. In neglect cases, the State's attorney, by representing the State, which has a duty to protect the child, would also be representing the child. The court may also appoint a guardian or a guardian ad litem for the child under Section 41.

SECTION 26. ADMISSIBILITY OF CHILD'S PRELIMINARY STATEMENTS

Unless advised by counsel, the statements of a child made while in custody to police or law enforcement officers or made to the ( )[26] or probation officer during the processing of the case, including statements made during a preliminary inquiry, predisposition study or consent degree, shall not be used against the child prior to a determination of the petition's allegations in a delinquency or need of supervision case or in a criminal proceeding prior to conviction.

Comment

This section is new. It goes beyond the *Miranda* decision in the sense that it does not permit a child to waive counsel and then make statements which could later be used against him. The section therefore is consistent theoretically with the non-waiverable right to counsel position adopted for family court hearings of delinquency and need of supervision cases. Statement made while a child is not in custody (e.g., "threshold admissions") are not excluded. This section, of course, does not preclude a child and his counsel from entering into express agreements with court officials or others that statements of a child shall not later be used against him.

SECTION 27. PROHIBITION AGAINST DOUBLE JEOPARDY

Criminal proceedings and other juvenile proceedings based upon the offense alleged in the petition or an offense based upon the same conduct is barred where the court has begun taking evidence or where the court has accepted a child's plea of guilty to the petition.

Comment

This section is new. It embodies traditional constitutional law concepts as to the time when jeopardy attaches. It is aimed at ensuring that no child will be prosecuted first as a juvenile and then later as an adult or in two juvenile court hearings for the same offense.

SECTION 28. OTHER BASIC RIGHTS

A child charged with a delinquent act or alleged to be in need of supervision shall be accorded the privilege against self-incrimination. An extrajudicial statement which would be constitutionally inadmissible in a criminal proceeding shall not be received in evidence over objection. Evidence illegally seized or obtained shall not be received in evidence over objection to establish the allegations against him. An extra-judicial admission or confession made by the child out of court is insufficient to support a finding that the child committed the acts alleged in the petition unless it is corroborated by other evidence.

Comment

This section, along with Sections 25, 26, and 27, establish rights for the child, some of which are required by recent decisions and some of which can reasonably be expected to be required in the future. It is likely that the courts will provide a child with at least the same degree of protection they provide an adult, if not more.

SECTION 29. CONDUCT OF HEARING

(a) Hearings under this Act shall be conducted by the court without a jury and separate from other proceedings not included in Section 7(a)(1).

Footnotes at end of article.

(b) The proceedings shall be recorded by stenographic notes or by electronic, mechanical or other appropriate means. If not so recorded, full minutes of the proceedings shall be kept by the court.

(c) Except in hearings to declare a person in contempt of court, the general public shall be excluded from hearings under Section 7(a)(1) and only the parties, their counsel, witnesses and other persons requested by a party shall be admitted. Such other persons as the court finds to have a proper interest in the case or in the work of the court, including members of the bar and press, may be admitted by the court on condition that such persons refrain from divulging any information which would identify the child or family involved. If the court finds that it is in the best interest of the child, his presence may be temporarily excluded from the hearings except while allegations of delinquency or need of supervision are being heard.

Comment

This section requires that the proceedings be recorded or that full minutes of the proceedings be kept by the court. It also provides for privacy of hearing. In addition to the parties, counsel, and witnesses, it gives the court discretion in certain situations to admit other persons to the hearing.

SECTION 30. PREDISPOSITION STUDY AND REPORT

(a) After a petition has been filed pursuant to Section 7(a)(1), the court shall direct that a predisposition study and report to the court be made in writing by a probation officer or another agency authorized by law, concerning the child, his family, his environment, and other matters relevant to the need for treatment or disposition of the case. The study and report shall not be made prior to a finding with respect to the allegations in the petition unless a notice of intent to admit the allegations is filed, and the party consents thereto.

(b) Where there are indications that the child may be mentally ill or mentally retarded, the court, on motion by the ( )[27] or that of counsel for the child, may order the child to be examined at a suitable place by a physician, psychiatrist, or psychologist prior to a hearing on the merits of the petition. Such examinations made prior to hearing or as part of the study provided for in subsection (a) of this section shall be conducted on an outpatient basis unless the court finds that placement in a hospital or other appropriate facility is necessary.

(c) The court, after hearing, may order examination by a physician, surgeon, psychiatrist, or phychologist of a patrent or custodian who gives his consent and whose ability to care for or supervise a child before the court is at issue.

Comment

This section differs considerably from the Uniform Act and the Standard Act. It requires a predisposition study in every case. This is considered an extremely important requirement necessary for reaching a disposition which will take into consideration the interests of the child and the community.

It prohibits such study, however, prior to a finding on the allegations in the petition unless a notice to admit the allegations is filed and the party consents to the study.

It also permits the court on its own motion or that of counsel for the child to require examinations of the child where there are indications that the child may be mentally ill or mentally retarded.

SECTION 31. TRANSFER TO CRIMINAL COURT

(a) The ( )[28] may, within 5 days of the date a delinquency petition has been filed and before a hearing on the petition on its merits, and following consultation with probation services, file a motion requesting the court to transfer the child for criminal prosecution if:

(1) the child was 16 or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult; or

(2) the child is 16 or more years of age and is already under commitment to an agency or institution as a delinquent; or

(3) a minor 18 years of age or older is alleged to have committed the delinquent act prior to having become 18 years of age.

(b) Following the filing of the motion of the ( ),[28] summonses shall be issued and served in conformity with the provision of Sections 15 and 16. A copy of the motion and a copy of the delinquency petition, if not already served, shall be attached to each summons.

(c) The court shall conduct a hearing on all such motions for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority. If the court finds that there are not reasonable prospects for rehabilitating the child prior to his majority and there are no reasonable grounds to believe he is commitable to an institution or agency for the mentally retarded or mentally ill, it shall order the case transferred for criminal proescution.

(d) When there are grounds to believe that the child is committable to an institution or agency for the mentally retarded or mentally ill, the court shall proceed as provided in Section 40(b).

(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

(1) the nature of the present offense and the extent and nature of the child's prior delinquency record:

(2) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

(3) the techniques, facilities and personnel available to the court for rehabilitation.

(f) to a hearing on the motion by the ( ),[29] a study and report to the court, in writing, relevant to the factors in subsection (e)(1), (2), and (3) shall be made by the probation services or a qualified agency designated by the court.

(g) When a child is transferred for criminal prosecution, the court shall set forth in writing its reasons for finding that there are no reasonable prospects for rehabilitating a child prior to his majority.

(h) Transfer of a child 16 years of age or older for criminal prosecution terminates the jurisdiction of the family court over the child with respect to any subsequent delinquent acts.

(i) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent proceedings relating to the offense.

Comment

This section differs considerably from both the Uniform Act and the Standard Act. It permits waiver of a child 16 years or older who has committed an offense which would be a felony if committed by an adult. It also permits waiver for any offense in the case of a child 16 years of age or older who is under commitment to an agency as a delinquent, or a minor 18 years of age or older who had committed a delinquent act prior to becoming 18 years of age. Where there are reasonable grounds to believe that a child is mentally retarded or mentally ill, waiver is prohibited preceding a finding as to either disability. When a child is found to be committable as a mentally ill or mentally retarded child, no transfer is permitted.

The criterion for waiver is whether there are reasonable prospects for rehabilitating the child prior to his majority. It also spells out the factors to be considered in establishing this criterion. It requires a study of the factors relevant to waiver and a written statement of the findings of the court. These requirements are considered necessary in the light of the Kent case (see Kent v. United States, 383 U.S. 541, 565, 1966).

The request for waiver is initiated by motion filed by the appropriate prosecuting official after consultation with probation services. The motion must be filed within 5 days of the date the delinquency petition was filed.

SECTION 32. HEARING—FINDINGS—DISMISSAL

(a) The parties shall be advised of their rights under law in their first appearance at intake and before the court. They shall be informed of the specific allegations in the petition and given an opportunity to admit or deny such allegations.

(b) If the allegations are denied, the court shall proceed to hear evidence on the petition. The court shall record its findings on whether or not the child is a neglected child or if the petition alleges delinquency or need of supervision, as to whether or not the acts ascribed to the child were committed by him. If the court finds that the allegations in the petition have not been established, it shall dismiss the petition and order the child discharged from any detention or temporary care theretofore ordered in the proceedings.

(c) If the court finds on the basis of a valid admission or a finding on proof beyond a reasonable doubt, based upon competent, material, and relevant evidence, that a child committed the acts by reason of which he is alleged to be delinquent, or in need of supervision, it may, in the absence of objection, proceed immediately to hear evidence as to whether the child is in need of care or rehabilitation and to file its findings thereon. In the absence of evidence to the contrary, evidence of the commission of an act which constitutes a felony is sufficient to sustain a finding that the child is in need of care or rehabilitation. If the court finds that the child is not in need of care or rehabilitation, it shall dismiss the proceedings and discharge the child from any detention or other temporary care theretofore ordered.

(d) If the court finds from clear and convincing evidence, competent, material, and relevant in nature, that the child is neglected; or from clear and convincing evidence, relevant and material in nature, that the child is in need of care or rehabilitation as a delinquent child, or child in need of supervision, the court may proceed immediately or at a postponed hearing to make proper disposition of the case.

(e) In disposition hearings all relevant and material evidence helpful in determining the questions presented, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though not competent in a hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when reasonably available, but sources of confidential information need not be disclosed.

(f) On its motion or that of a party, the court may continue the hearings under this section for a reasonable period to receive reports and other evidence bearing on the disposition or need for care or rehabilitation. In this event, the court shall make an appropriate order for detention or temporary care of the child or his release from detention or temporary care subject to supervision of

Footnotes at end of article.

the court during the period of the continuance.

Comment

This section is somewhat similar to that in the Uniform Act. It does not require any specific number of hearings. It does provide for the procedures as well as the findings which must be made. In this way, flexibility is provided. In one type of situation, the case may be disposed of at a single hearing. This is even possible at a detention hearing. In another case, several hearings may be necessary. It should also be noted that in making a finding as to the allegations in the petition in a delinquency or in need of supervision case, proof beyond a reasonable doubt is required. A finding, however, that a child is neglected or that he is in need of care or rehabilitation as a delinquent child or as a child in need of supervision shall be based on clear and convincing evidence. The section further provides that all information including oral and written reports submitted in the determination that the child is in need of care or rehabilitation shall be available to the parties and their counsel.

SECTION 33. CONTINUANCE UNDER SUPERVISION WITHOUT ADJUDICATION—CONSENT DECREE

(a) At any time after the filing of a delinquency or need of supervision petition and before the entry of an adjudication order, the court may, on motion of the( )[30] or that of counsel for the child, suspend the proceedings, and continue the child under supervision in his own home, under terms and conditions negotiated with probation services and agreed to by all parties affected. The court's order continuing the child under supervision shall be known as a consent decree.

(b) Where the child objects to a consent decree, the court shall proceed to findings, adjudication and disposition. Where the child does not object, but an objection is made by the ( )[30] after consultation with probation services, the court shall, after considering the objections and reasons therefor, proceed to determine whether it is appropriate to enter a consent decree.

(c) A consent decree shall remain in force for 6 months unless the child is discharged sooner by probation services. Upon application of probation services or other agency supervising the child, made before expiration of the 6-month period, a consent decree may be extended by the court for an additional 6 months.

(d) If prior to discharge by the probation services or expiration of the consent decree, a new delinquency or in need of supervision petition is filed against the child, or the child otherwise fails to fulfill express terms and conditions of the decree, the petition under which the child was continued under supervision may, in the discretion of the ( )[30] following consultation with probation services, be reinstated and the child held accountable just as if the consent decree had never been entered.

(e) A child who is discharged by the probation services, or who completes a period of continuance under supervision without reinstatement of the original delinquency or need of supervision petition, shall not again be proceeded against in any court for the same offense alleged in the petition or an offense based upon the same conduct.

(f) A judge who, pursuant to this section, elicits or examines information or material about a child which would be inadmissible in a hearing on the allegations in the petition shall not, over the objection of the child, participate in any subsequent proceedings on the delinquency or in need of supervision petition if:

(1) a consent decree is denied and the allegations in the petition remain to be decided in a hearing where the child denies his guilt; or

(2) a consent decree is granted but the delinquency or in need of superivsion petition is subsequently reinstated under subsection (d).

Comment

This section is new and is patterned after the recommendation of the President's Commission on Law Enforcement and Administration of Justice in its report, *The Challenge of Crime in a Free Society* (1967). It permits the court on its own motion or on the motion of the party to suspend the proceedings and continue the child under supervision in his own home at any time before the entry of a finding with respect to the allegations in the petition. This will not only expedite the administration of justice but also can eliminate the need of a finding of delinquency or in need of supervision, which may cause problems for the child later in life. A number of provisions included are designed not only to protect the child but also to protect the public. This section, coupled with the recommended development of youth bureaus by the President's Commission on Law Enforcement and Administration of Justice, should eliminate the necessity of the court carrying cases on an informal or unofficial basis. In fact, no informal counseling or unofficial handling on an extended basis is provided for under this Act.

SECTION 34. DISPOSITION OF NEGLECTED CHILD—DELINQUENT CHILD—CHILD IN NEED OF SUPERVISION

(a) If a child is found to be neglected, the court may make any of the following orders of disposition to protect the welfare of the child:

(1) permit the child to remain with his parents, guardian, or other custodian, subject to such conditions and limitations as the court may prescribe;

(2) place the child under protective supervision;

(3) transfer legal custody to any of the following—

(A) a State or local public agency responsible for the care of neglected children,

(B) a child-placing agency or other private organization or facility willing and able to assume the education, care, and maintenance of the child at no expense to the public, and which is licensed or otherwise authorized by law to receive and provide care for such child,

(C) a relative or other individual who, after study by the probation services or other agency designated by the court, is found by the court to be qualified to receive and care for the child.

(b) Unless a child found neglected shall also be found to be delinquent, he shall not be committed to or confined in an institution established for the care and rehabilitation of delinquent children.

(c) If a child is found to be a delinquent or in need of supervision, the court may make any of the following orders of disposition for his supervision, care, and rehabilitation:

(1) any order which is authorized by subsection (a) of this section for the disposition of a neglected child;

(2) transfer legal custody to a State or local public agency responsible for the care of delinquent children;

(3) place the child on probation under such conditions and limitations as the court may prescribe.

(d) No delinquent child by virtue of such adjudication shall be committed or transferred to a penal institution or other facility used for the execution or sentences of persons convicted of a crime.

(e) No child found to be in need of supervision, unless also found to be delinquent, shall be committed to or placed in an institution or facility established for the care and rehabilitation of delinquent children unless such child is again alleged to be a child in need of supervision and the court, after hearing, so finds.

(f) Whenever the court vests legal custody in an agency, institution or department, it shall transmit with the order copies of the clinical reports, predisposition study, and other information it has pertinent to the care and treatment of the child.

Comment

This section provides for differential disposition of neglected children, delinquent children, and children in need of supervision. The commitment or placement of a neglected child in an institution for delinquent children is prohibited. It also prohibits the commitment or transfer of a delinquent child to a penal institution or other facility for the execution of sentences of persons convicted of a crime.

A child who is found to be in need of supervision cannot be committed to or placed in an institution for delinquent children unless the child is again alleged to be in need of supervision and, after hearing, the court so finds.

SECTION 35. ORDER OF ADJUDICATION, NONCRIMINAL

An order of disposition or other adjudication in proceedings under this Act shall not be deemed a conviction of crime or impose any civil disabilities ordinarily resulting from a conviction or operate to disqualify the child in any civil service application or appointment.

The disposition of a child and evidence given in a hearing in the family court shall not be admissible as evidence against him in any case or proceeding in any other court whether before or after reaching majority except in sentencing proceedings after conviction of a felony for the purposes of a presentence study and report.

SECTION 36. SERVICE BY PUBLICATION—INTERLOCUTORY ORDER OF DISPOSITION

(a) If service of summons upon a party is made by publication, the court may conduct a provisional hearing upon the allegations of the petition and enter an interlocutory order of disposition if:

(1) the petition alleges delinquency, in need of supervision, or neglect of the child;

(2) the summons served upon any party

(A) states that prior to the final hearing on the petition designated in the summons a provisional hearing thereon will be held at a specified time and place,

(B) requires the party served to appear and answer the allegations of the petition at such hearing.

(C) states further that findings of fact and orders of disposition made pursuant to the provisional hearing will become final at the final hearing unless the party served by publication appears at the final hearing, and

(D) otherwise conforms to the provisions of Section 15, and

(3) the child is personally before the court at the provisional hearing on petitions alleging delinquency and in need of supervision. The court may waive the presence of the child in neglect cases.

(b) All provisions of this Act applicable to a hearing on a petition and to orders of disposition and to other proceedings dependent thereon shall apply to proceedings under this section, but findings of fact and orders of disposition shall have only interlocutory effect pending the final hearing on the petition and the rights and duties of the party served by publication shall not be affected except as provided in subsection (c).

(c) If the party served by publication fails to appear at the final hearing on the petition, the findings of fact and interlocutory orders made shall become final without further evidence and shall be governed by the provisions of this Act as if made at the final hearing. If such party appears at the final hear-

Footnotes at end of article.

ing, such findings and orders shall be vacated and disregarded and the hearing shall proceed upon the allegations of the petition as otherwise provided by this Act without regard to this section.

Comment

This section is similar to the provision in the Uniform Act. It is included to permit the court in cases where summons is made by publication to proceed with the case and to take the necessary action with respect to the child. In the large majority of such cases, the party so served will not appear.

SECTION 37. LIMITATION OF TIME ON DISPOSITIONAL ORDERS

(a)

(1) An order vesting legal custody of a child in a department, agency, or institution shall remain in force for an indeterminate period not exceeding 1 year from the date entered, provided, however, that the child shall be released within the 1-year period by the department, institution, or agency when it appears that the purpose of the order has been achieved.

(2) An order vesting legal custody of a child in an individual shall remain in force for 1 year from the date entered unless sooner terminated by court order.

(3) An order of probation or protective supervision shall remain in force for an indeterminate period not exceeding 1 year from the date entered, provided, however, such probation or supervision shall be terminated within the 1-year period by probation services or agency providing the supervision where it appears that the purpose of the order has been achieved.

(b)

(1) Prior to the expiration of an order transferring legal custody, the court may extend the order for an additional period of 1 year if it finds after a hearing, pursuant to Section 38, that the extension is necessary to safeguard the welfare of the child or the public interest.

(2) Prior to the expiration of an order of probation or protective supervision, the court may extend it for an additional period of 1 year after a hearing pursuant to Section 38 if it finds that the extension is necessary to protect the community or to safeguard the welfare of the child.

(c) When a child reaches 21 years of age, all orders affecting him then in force terminate.

(d) A release or termination, and the reasons therefor, made under subsections (a)(1) and (a)(3) of this section shall be promptly reported to the court in writing.

Comment

This section is new. It is designed as a protection for the child and a check on agencies which may be providing care and service. It should prevent children from becoming "lost" in a program and will stimulate continuous planning and work by the agency during the period of commitment, which may be renewed periodically during minority. It requires the agency to release the child or terminate probation when it appears that the purposes of such orders have been achieved. When such action is taken, a report of the action and the reasons therefor shall be promptly reported to the court in writing.

SECTION 38. MODIFICATION—TERMINATION OR EXTENSION OF COURT ORDERS

(a) At any time prior to expiration, an order vesting legal custody or an order of protective supervision made by the court in the case of a child may be modified, revoked, or extended on motion by:

(1) a child, whose legal custody has been transferred to an institution, agency, or person, requesting the court for a modification or termination of the order alleging that he is no longer in need of commitment and the institution, agency, or person has denied application for release of the child or has failed to act upon the application within a reasonable time; or

(2) an institution, agency, or person vested with legal custody or responsibility for protective supervision requesting the court for an extension of the order on the grounds that such action is necessary to safeguard the welfare of the child or the public interest.

(b) The court may dismiss the motions filed under subsection (a) of this section if, after preliminary investigation, it finds that they are without substance. If it is of the opinion that the order should be reviewed, it may, upon due notice to all necessary parties as prescribed by rules of court, proceed to a hearing in the manner provided for in this Act. It may thereupon terminate the order if it finds the child is no longer in need of care, supervision, or rehabilitation, or it may enter an order extending or modifying the original order if it finds such action necessary to safeguard the child or the public interest.

Comment

In order to protect the child or the community, a means must be provided whereby the disposition of the court may be modified. This section provides the procedure whereby an order may be modified, revoked, or extended.

SECTION 39. PROBATION REVOCATION—DISPOSITION

(a) A child on probation incident to an adjudication as a delinquent or minor in need of supervision who violates a term of his probation may be proceeded against in a probation revocation hearing.

(b) A proceeding to revoke probation shall be commenced by the filing of a petition labeled "Petition to Revoke Probation." Except as otherwise provided, petitions to revoke probation shall be screened, reviewed and prepared in the same manner and shall contain the same information as provided in Sections 13 and 14. The petition shall recite the date that the child was placed on probation and shall state the time and manner in which notice of the terms of probation were given.

(c) Probation revocation proceedings shall require clear and convincing evidence. In all other respects, proceedings to revoke probation shall be governed by the procedures, rights and duties applicable to delinquency and in need of supervision cases contained in this Act.

(d) If a child is found to have violated a term of his probation pursuant to a probation revocation hearing, the court may extend the period of probation or make any other order of disposition specified for a child adjudicated delinquent in Section 34.

Comment

This is a new section. It establishes the procedure and provides for disposition in a hearing for probation revocation. It requires the same proceedings to be followed as in any other petition. However, it provides that the determination that a violation of probation has taken place be based on clear and convincing evidence. If the child is found to have violated his probation, the probation period may be extended, or any other disposition specified in Section 34 for a delinquent child may be made.

SECTION 40. DISPOSITION OF MENTALLY ILL OR MENTALLY RETARDED CHILD

(a) If, at a hearing to determine whether a child is neglected or in need of care or rehabilitation, as a delinquent child or person in need of supervision, pursuant to Section 32, the evidence indicates that the child is mentally retarded or mentally ill, the court may order the child detained if required pursuant to Section 20, and shall direct the ( )[51] to initiate proceedings under Section 7(b)(6).

(b) If, at a hearing under subsection (a), the evidence indicates that the child may be suffering from mental retardation or mental illness, the court may commit the child for a period not exceeding 30 days to an appropriate institution or agency for further study and a report on the child's condition. If it appears therefrom that the child is committable under the laws of this State as a mentally retarded or mentally ill person, the court may order the child detained if required pursuant to Section 20, and shall direct the ( )[51] to initiate commitment proceedings under Section 7(b)(6).

(c) In the event the child is committed as a mentally retarded or mentally ill child, the petition alleging delinquency or in need of supervision or neglect shall be promptly dismissed.

Comment

This section is new. It provides for the disposition of children who are found to be mentally ill or mentally retarded. Its effect is to prevent a finding and commitment of such children as neglected, delinquent, or in need of supervision.

SECTION 41. GUARDIAN AD LITEM—GUARDIAN OF THE PERSON

(a) The court, at any stage of a proceeding under this Act, may appoint a guardian ad litem for a child who is a party to the proceeding, if he has no parent or guardian or custodian appearing on his behalf or their interests conflict with those of the child. A party to the proceeding or his employee or representative shall not be so appointed.

(b) The court, in any proceeding under this Act, shall appoint a guardian of the person for a child in any case where it finds that the child does not have a natural or adoptive parent in a position to exercise effective guardianship or a legally appointed guardian of his person. No officer or employee of a State or local public agency, or private agency or institution which is vested with legal custody of a child shall be appointed guardian of the person except when parental rights have been terminated and the agency or institution has been authorized to place the child for adoption.

(c) In any case arising pursuant to Section 7(a)(1), the court may also determine as between parents whether the father or the mother shall have legal custody of the child.

Comment

In addition to authorizing the court to appoint a guardian ad litem, this section requires the court to appoint a guardian of the person if the court finds that the child does not have a natural or adoptive parent in a position to exercise effective guardianship or a legally appointed guardian of his person. This requirement is based on the principle that every child is entitled to always have someone legally responsible for him.

No officer or employee of a State or local agency which has legal custody may be appointed as guardian of the person, except where parental rights have been terminated and the agency authorized to place for adoption. This limitation is included since the merging of legal custody and guardianship of a person in an agency would merge these duties in a single entity, thus depriving the child of a separate and independent advocate in the form of a guardian.[52]

The court also is given the authority to determine legal custody as between the parents in cases of neglect, delinquency, or in need of supervision.

SECTION 42. COURT COSTS AND EXPENSES

(a) The following expenses shall be a charge upon the funds of the ( )[53] upon certification of the same by the court:

Footnotes at end of article.

(1) the costs of medical and other examinations nad treatment of a child ordered by the court;

(2) reasonable compensation for services and related expenses for counsel appointed by the court for the party;

(3) the expenses of service of summons, notices, subpoenas, traveling expenses of witnesses, and other like expenses incurred in the proceedings under this Act; and

(4) reasonable compensation for a guardian ad litem.

(b) If, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court finds that they are financially able to pay all or part of the costs and expenses stated in subsections (a)(1) and (a)(2) of this section, the court shall order them to pay the same and may prescribe the manner of payment. Unless otherwise ordered, payment shall be made to the clerk of the ( )[34] for remittance to those to whom compensation is due, or if costs and expenses have been paid by the ( ),[35] to the appropriate officer of the ( ).[35]

SECTION 43. SUPPORT OF COMMITTED CHILD—PURCHASE OF CARE

(a) Whenever legal custody of a child is vested in someone other than his parents, after due notice to the parents or other persons legally obligated to care for and support the child, and after a hearing, the court may order and decree that the parent or other legally obligated person shall pay in such a manner as the court may direct a reasonable sum that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

(b) When legal custody of a child is vested in the ( )[36] pursuant to Section 34, the ( )[36] may purchase care or service from a nongovernmental agency provided that the agency shall submit periodic reports to the ( )[36] covering the care and treatment the child is receiving and his response to such treatment. These reports shall be made as frequently as the ( )[36] deems necessary and shall be made with respect to every such child at intervals not exceeding 6 months. The agency shall also afford an opportunity for a representative of the ( )[36] to examine or consult with the child as frequently as the ( )[36] deems necessary.

Comment

Subsection (b) of this section gives authority to a State or local public agency which is vested with legal custody to purchase care or service from a nongovernmental agency. Ordinarily this provision would appear in legislation governing the authority of the executive, State, or local department. It should be included in this Act if it does not appear elsewhere in the statutes.

SECTION 44. PROTECTIVE ORDER

In any proceeding commenced under this Act, on application of a party or the court's own motion, the court may make an order restraining the conduct of any party over whom the court has obtained jurisdiction, if:

(1) an order of disposition of a delinquent or neglected child, or child in need of supervision has been made in a proceeding under this Act; and

(2) the court finds that the person's conduct is or may be detrimental or harmful to the child, and will tend to defeat the execution of the order of disposition made; and

(3) due notice of the application or motion and the grounds therefor and an opportunity to be heard thereon have been given to the person against whom the order is directed.

SECTION 45. SOCIAL AND LEGAL RECORDS—INSPECTION

(a) Social, medical and psychological records, including reports of preliminary inquiries, predisposition studies, and supervision records of probationers shall be filed separate from other files and records of the court and shall be open to inspection only by the following:

(1) the judge, probation officers and professional staff of the court;

(2) representatives of a public or private agency, department, or institution providing supervision or having legal custody of the child;

(3) any other person, agency, or institution, by leave of the court, having a legitimate interest in the case or in the work of the court; and

(4) a court and its probation and other professional staff, or an attorney for the defendant for use in considering the sentence to be imposed upon a convicted person who, prior thereto, had been a party to the proceedings in family court.

(b) All or any part of the records enumerated in subsection (a), or information secured from such records, when presented to and used by the judge in court or otherwise in a proceeding under this Act shall also be made available to the parties to the proceedings and their counsel and representatives.

(c) All other court records, including docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees, shall be open to inspection only by those persons and agencies designated in subsections (a) and (b) of this section.

(d) Whoever, except for the purposes permitted and in the manner provided by this section, discloses or makes use of or knowingly permits the use of information concerning a child before the court directly or indirectly derived from the records of the court or acquired in the course of official duties, upon conviction thereof shall be guilty of a misdemeanor.

Comment

This section protects court records from public inspection. Parties and their counsel are entitled to inspection of all legal records as well as social records which are introduced into evidence. The inspection of social records not introduced in evidence is limited to court staff and other agencies or individuals providing care or supervision for the child, or persons having a legitimate interest in the case or the work of the court.

SECTION 46. LAW ENFORCEMENT RECORDS

(a) Law enforcement records and files concerning a child shall be kept separate from the records and files of arrests of adults. Unless a charge of delinquency is transferred for criminal prosecution under Section 31, or the interest of national security requires, or the court otherwise orders in the interest of the child, such records and files shall not be open to public inspection nor their contents disclosed to the public.

(b) Inspection of such records and files is permitted by the following:

(1) a family court having the child currently before it in any proceeding;

(2) the officers of public and nongovernmental institutions or agencies to which the child is currently committed, and those responsible for his supervision after release;

(3) any other person, agency, or institution, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;

(4) law enforcement officers of other jurisdictions when necessary for the discharge of their current official duties;

(5) a court in which he is convicted of a criminal offense for the purpose of a presentence report or other dispositional proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and

(6) parent, guardian or other custodian and counsel for the child.

(c) Whoever, except as provided by this section, discloses, receives, or makes use of or knowingly permits the use of information concerning a juvenile known to the police, directly or indirectly derived from police records or files or acquired in the course of official duties, upon conviction thereof shall be guilty of a misdemeanor.

Comment

This section is new and is designed to protect law enforcement records from indiscriminate public inspection. Its provisions in general follow the guidelines in *Police Work with Children* (Children's Bureau Pub. No. 399, 1962).

SECTION 47. CHILDREN'S FINGERPRINTS—PHOTOGRAPHS

(a) Fingerprints of a child 14 or more years of age who is referred to court may be taken and filed by law enforcement officers investigating the commission of a felony. If the court does not find that the child committed the alleged felony, the fingerprint card and all copies of the fingerprints shall be destroyed.

(b) If latent fingerprints are found during the investigation of an offense and a law enforcement officer has reason to believe that they are those of the child in custody, he may fingerprint the child regardless of age or offense for purposes of immediate comparison with the latent fingerprints. If the comparison is negative, the fingerprint card and other copies of the fingerprints taken shall be immediately destroyed. If the comparison is positive and the child is under 14 years of age and referred to court, the fingerprint card and other copies of the fingerprints shall be delivered to the court for disposition. If the child is not referred to court, the prints shall be immediately destroyed.

(c) If the court finds that a child 14 or more years of age has committed a felony, the prints may be retained in a local file or sent to a central State depository provided that they shall be kept separate from those of adults under special security measures limited to inspection for comparison purposes by law enforcement officers or by staff of the depository only in the investigation of a crime.

(d) A child in custody shall not be photographed for criminal identification purposes without the consent of the judge unless the case is transferred for criminal prosecution.

(e) Any person who willfully violates provisions of this section is guilty of a misdemeanor.

Comment

This section is new. In general, it follows the recommendations made in *Police Work with Children* (Children's Bureau Pub. No. No. 399, 1962). It recognizes that fingerprints are valuable in investigating the commission of a criminal act and the police should not be handicapped by unnecessary prohibitions. This section provides for reasonable use of fingerprints and for effective protections against their misuse.

SECTION 48. SEALING OF RECORDS

(a) On motion on the part of a person who has been the subject of a petition filed under Section 7(a)(1) of this subsection or on the court's own motion, the court shall vacate its order and findings and order the sealing of the legal and social files and records of the court, probation services, and of any other agency in the case if it finds that:

(1) 2 years have elapsed since the final discharge of the person from legal custody or

Footnotes at end of article.

supervision, or 2 years after the entry of any other court order not involving custody or supervision; and

(2) he has not been convicted of a felony or gross misdemeanor involving moral turpitude, or adjudicated delinquent or in need of supervision prior to the filing of the motion, and no proceeding is pending seeking such conviction or adjudication. The motion and the order may include the files and records specified in Section 46.

(b) Reasonable notice of the motion shall be given to:

(1) the ( );[37]

(2) the authority granting the discharge if the final discharge was from an institution, parole, or probation; and

(3) the law enforcement officers, department, and central depository having custody of the files and records if the files and records specified in Section 46 are included in the motion.

(c) Upon the entry of the order, the proceedings in the case shall be treated as if they never occurred, and all index references shall be deleted and the court and law enforcement officers and departments shall reply and the person may reply to any inquiry that no record exists with respect to such person. Copies of the order shall be sent to each agency or official named therein.

Inspection of the files and records included in the order may thereafter be permitted by the court only upon motion by the person who is the subject of such records, and only to those persons named in the motion; provided, however, the court in its discretion may by special order in an individual case permit inspection by or release of information in the records to any clinic, hospital, or agency which has the person under care or treatment or to individuals or agencies engaged in factfinding or research.

(d) Any adjudication of delinquency or in need of supervision or conviction of a crime subsequent to sealing shall have the effect of nullifying the sealing order.

(e) A person who has been the subject of a petition filed under Section 7(a)(1) shall be notified of his rights under subsection (a) at the time of his final discharge.

Comment

This section is new and establishes a procedure for the sealing of court, police, probation, or other agency records when certain conditions have been met. It is somewhat similar to the Uniform Act as well as to the provisions in the Colorado statute.

SECTION 49. CONTINUANCES

Continuances shall be granted by the court only upon a showing of good cause and only for so long as is necessary, taking into account not only the request or consent of the ( )[38] or child, but also the interest of the public in the prompt disposition of cases.

Comment

The foregoing section is based upon Rule 1.3 of the American Bar Association's Minimum Standards for Criminal Justice Relating to Speedy Trial. The inclusion of this provision in the statute would in no way preclude the family court from promulgating court rules on the subject of continuances.

SECTION 50. CONTEMPT POWERS

Subject to the laws relating to the procedures therefor and the limitations thereon, the court may punish a person for contempt of court for disobeying an order of the court or for obstructing or interfering with the proceedings of the court or enforcement of its orders.

SECTION 51. PROCEDURE IN ADULT CASES

In any proceeding arising under Section 10, the court, with consent of the defendant, may make a preliminary investigation and such adjustment as is practicable, without prosecution. The procedure and disposition applicable in the trial of such cases in a criminal court shall be applicable to trial in the family court. The ( )[38] shall prepare and prosecute any case within the purview of Section 10.

Where in his opinion it is necessary to protect the welfare of the persons before the court. the judge, with the consent of the defendant or the parties in interest, may conduct hearings in chambers, and may exclude persons having no direct interest in the case.

SECTION 52. ADDITIONAL REMEDIES NOT PLEADED

When it appears during the course of any hearings or proceeding on delinquency or a person in need of supervision that some finding or remedy other than or in addition to those indicated by the petition or motion appears from the facts to be appropriate, the court may, on motion by the ( ),[39] or that of counsel for the child, amend the petition or motion and, provided all necessary parties consent, proceed to hear and determine forthwith the additional or other issues or findings as though originally properly sought.

SECTION 53. RULES OF COURT

The ( )[40] shall adopt rules of procedure not in conflict with this Act governing proceedings under this Act.

SECTION 54. APPEALS

(a) A party, including the State or a subdivision of the State, may appeal from a final order, judgment or decree of the family court to the ( )[41] by filing written notice of appeal within 30 days, or such further time as the ( )[41] may grant, after entry of the order, judgment or decree. The appeal shall be heard by the ( )[41] upon the files, records, and minutes or transcript of the evidence of the family court. The name of the child shall not appear on the record on appeal.

(b) The appeal does not stay the order, judgment or decree appealed from, but the ( )[41] may otherwise order, on application and hearing consistent with the provisions of this Act, if suitable provision is made for the care and custody of the child. If the order, judgment or decree appealed from grants the custody of the child to, or withholds it from, one or more of the parties to the appeal, the appeal shall be heard at the earliest practicable time. If the ( )[41] does not dismiss the proceedings and discharge the child, it shall affirm or modify the order of the family court and remand the child to the jurisdiction of the court for disposition, not inconsistent with the ( )[41] findings on the appeal.

(c) A child who has filed notice of appeal shall be furnished a transcript of the proceedings or as much of it as is requested upon the filing of a motion stating that he is financially unable to purchase the transcript.

SECTION 55. LAWS REPEALED

All laws and portions of laws relating to juvenile or family courts or any other subject dealt with in this Act, which are in conflict with the provisions of this Act, are hereby repealed. The term "juvenile court" as set forth in any existing State statute shall be deemed to mean the family court created hereby.

SECTION 56. CONSTITUTIONALITY

If any section, subsection, or clause of this Act shall be held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Act.

APPENDIX

Alternative procedures for processing criminal complaints against adults

Subsections (a) and (b) of Section 10 of this Act give the family court exclusive and original jurisdiction over criminal offenses committed against children by certain minors and adults who have a continuing relationship with the child victim. This jurisdiction is included in order to permit coordination of the sentence in the case of the adult with the disposition of the child who may be before the court.

Section 10 also gives the family court jurisdiction over offenses committed by one spouse against the other. Such conduct as a rule indicates serious interpersonal family problems which also have an adverse effect on other members of the family, particularly children. By giving the family court jurisdiction of these cases, it may be possible to prevent further deterioration in the family relationship through the use of specialized services available to the family court.

Section 51 also permits the court, with the consent of the defendant, to make a preliminary investigation and adjustments, if possible, to obviate the need for criminal prosecution. Any action taken at this point would be purely consensual on the part of the parties. The court would have no way of enforcing any agreement or plan. In order to do this, it would have to resort to criminal prosecution.

There are those who believe that criminal proceedings, by their very nature, are not appropriate to the jurisdiction of the family court. In some cases, there is also the likelihood that such action will aggravate or intensify the problem and lead to complete family breakdown.

Therefore, an alternative is suggested which would permit the court through a civil action to exert its authority in both a preventive and remedial manner. In this way, criminal actions could be kept out of the family court. Coordination of a sentence in an adult case with the disposition of a child would still be possible by giving the criminal division of the highest court of general trial jurisdiction, jurisdiction over such offenses.

If this approach is desired, Section 10 would have to be modified and provision for this new proceeding included in the Act. The following sections, patterned after proposed legislation relating to the District of Columbia, are included for this purpose.

Proceedings Regarding Intra-Family Offenses

Section 1. intra-family offenses

(a) An intra-family offense is an act punishable as a crime or offense committed:

(1) by one spouse against the other;

(2) by a parent, guardian, or other legal custodian against the child.

(b) A "complainant" or "family member" includes any individual in the relationship described in subsection (a).

Section 2. Complaint of criminal conduct—Election of remedy

(a) Upon the complaint of any person or agency of criminal conduct, threat of criminal conduct, or the arrest of a person charged with criminal conduct, where it appears to the ( )[42] that the conduct involves an intra-family offense, he shall refer the complainant to the intake office of probation services. The intake office shall conduct a preliminary inquiry to determine whether the interests of the person or persons for whose benefit the protection is sought require that a petition for civil protection be filed. The intake office shall make recommendations to the ( )[43] as it deems appropriate.

(b) That ( )[42] after considering the recommendations of the intake office, may:

(1) file a criminal charge based upon the conduct; or

(2) file a petition for civil protection in the family court.

Section 3. Petition—Notice—Temporary order

(a) Upon the filing of a petition for civil protection, the court shall set the matter for hearing, consolidating it, where appropriate, with other matters before the court involving the same persons.

Footnotes at end of article.

(b) The court shall cause summons to be served on the respondent, complainant, and, if appropriate, the family member endangered, or, if a child, the person then having physical custody of the child. A copy of the petition shall be attached to the summons. The court may also cause summons to be served on other members of the family whose presence at the hearing is necessary to the appropriate disposition of the matter.

(c) If, upon the filing of the petition, it appears that the safety or welfare of the family member is immediately endangered by the respondent named in the petition, the court may, ex parte, issue a temporary protection order containing any of the provisions in Section 4(c), of not more than 10 days duration and direct that the order be served along with the notice required by this section.

Section 4. Hearing—evidence—protection order

(a) The ( ) [43] shall represent the State at the hearing.

(b) In a hearing under this section, one spouse shall be a competent and compellable witness against the other and may testify as to confidential communications, notwithstanding the provisions of Section ( ) [44], but testimony compelled over a claim of a privilege conferred by Section ( ) [44] shall be inadmissable in evidence in a criminal trial over the objection of a spouse entitled to claim that privilege.

(c) If, after the hearing on the petition, the court finds that there is good cause to believe the respondent has committed or is threatening an intra-family offense, it may issue one or more of the following orders singly or in combination:

(1) direct the respondent to refrain from the conduct involved and to keep the peace toward the family member;

(2) require the respondent, alone or in conjunction with any other member of the family before the court, to participate in psychiatric or medical treatment or appropriate counseling programs;

(3) direct, where appropriate, that the respondent avoid the presence of the family member endangered;

(4) direct the respondent to perform or refrain from other actions as may be appropriate to the effective resolution of the matter.

(d) In making an order under subsection (c) after a finding on the petition, all evidence helpful in determining the questions presented, including oral and written reports of the social service staff, may be received by the court and may be relied upon to the extent of their probative value even though not competent in a hearing on the petition. The parties or their counsel shall be afforded an opportunity to examine and controvert oral or written reports so received and to cross-examine individuals making such reports when they are reasonably available, but sources of confidential information need not be disclosed.

(e) A protection order issued pursuant to this section shall be effective up to 1 year during which the court may, upon motion of the ( ) [45] or of any party to the original proceeding, extend, rescind or modify the order for good cause shown.

(f) Any final order issued pursuant to this section and any order granting or denying extension, modification, or recission of such order shall be appealable.

(g) Violation of any temporary or permanent order issued under this section shall be punishable as contempt.

FOOTNOTES

[1] See Children's Bureau, Pub. No. 437, *Standards for Juvenile and Family Courts*, 1965 (hereinafter cited as Standards), p.1.

[2] See Standards, pp. 7 and 8.

[3] Insert name of highest court of general trial jurisdiction.

[4] Set forth the sections of State statutes, violations of which are likely to need the specialized handling of the juvenile court, such as, the so-called negligent homicide statute sometimes appearing in traffic codes, driving while drunk or under the influence of narcotics, driving without or during suspension of a driver's license, and the like.

[5] See Standards, p. 16.

[6] Insert name of highest court of general trial jurisdiction.

[7] See Standards, p. 29.

[8] Insert title of chief judge of court of highest general trial jurisdiction.

[9] Insert title of chief judge of court of highest general trial jurisdiction.

[10] Insert appropriate budgetary authority.

[11] Insert appropriate source of funds.

[12] Insert the State agency responsible for the administration of State services for delinquent children.

[13] Developed by the National Council on Crime and Delinquency in cooperation with the National Council of Juvenile Court Judges and the Children's Bureau, 1959 (hereinafter cited as Standard Act).

[14] See Standards, p. 41.

[15] Insert title of appropriate prosecuting official.

[16] Developed in 1968 by the Commissioners on Uniform State Laws, hereinafter cited as Uniform Act.

[17] Insert title of appropriate prosecuting official.

[18] Insert the general service of publication statutes.

[19] Insert appropriate fiscal source.

[20] Insert title of appropriate prosecuting official.

[21] Insert the name of the State administrative agency responsible for the State's program for the control and treatment of delinquency.

[22] Insert the title of the chief judge of the court of highest general trial jurisdiction or other judicial officer or body responsible for the administration of the State judicial system.

[23] Insert the name of the State department responsible for the administration of child welfare services, which may or may not be also responsible for services for delinquent children.

[24] Downey, John J.: State Responsibility for Child Detention Facilities, *Juvenile Court Judges Journal*, Vol. 14, No. 4, Winter, 1964; Downey, John J.: Detention Care in Rural Areas, *Proceedings of The National Conference on Problems of Rural Youth in a Changing Environment;* September 1963; Brewer, Edgar W.: *Detention Planning*, Children's Bureau Pub. 391, 1960, and *Standards and Guides for the Detention of Children and Youth*, National Council on Crime and Delinquency, 1961.

[25] Insert date when this provision is to become effective.

[26] Insert title of appropriate prosecuting official.

[27] Insert title of appropriate prosecuting official.

[28] Insert title of appropriate prosecuting official.

[29] Insert title of appropriate prosecuting official.

[30] Insert title of appropriate prosecuting official.

[31] Insert name of State or local department responsible for welfare services for children and youth, or delinquent children.

[32] See Standards, p. 95.

[33] Insert appropriate political subdivision—county or State.

[34] Highest court of general trial jurisdiction.

[35] Appropriate fiscal authority—county or State.

[36] Insert name of appropriate State or local public agency.

[37] Insert title of appropriate prosecuting official.

[38] Insert title of appropriate prosecuting official.

[39] Insert title of appropriate prosecuting official.

[40] The Supreme Court or the body having rule-making powers within the State.

[41] Insert name of appropriate appellate court.

[42] Insert title of appropriate prosecuting official.

[43] Insert title of appropriate prosecuting official.

[44] Cite appropriate Section of Code governing privilege.

[45] Insert title of appropriate prosecuting official.

APPENDIX D

MORRIS A. KENT, JR., APPELLANT, *v.* UNITED STATES OF AMERICA, APPELLEE, No. 20922

(United States Court of Appeals, District of Columbia Circuit)

Argued Oct. 23, 1968.

Decided July 30, 1968.

Appeal from a decision of the United States District Court for the District of Columbia, Howard F. Corcoran, J., which determined that waiver of juvenile by juvenile court was appropriate and proper. The Court of Appeals, Bazelon, Chief Judge, held, inter alia, that social philosophy underlying District of Columbia Juvenile Court forbad waiver by juvenile court of juvenile afflicted with serious mental illness, since such waiver was not necessary for protection of society and was not conducive to juvenile's rehabilitation.

Reversed.

Burger, Circuit Judge, dissented.

1. Infants ⇐68.

Juvenile court has a substantial degree of discretion in determining whether to retain jurisdiction over a child, but such discretion must be exercised in accordance with the spirit of the District of Columbia Juvenile Court Act. D.C.C.E. § 11–1553.

2. Infants ⇐16.5.

Theory of District of Columbia Juvenile Court Act is rooted in social welfare philosophy rather than the corpus juris. D.C.C.E. § 11–1553.

3. Infants ⇐16.5.

District of Columbia Juvenile Court is theoretically engaged in determining needs of child and of society rather than adjudicating criminal conduct, and the objectives are to provide measures of guidance and rehabilitation for the child and protection for society, not to fix criminal responsibility, guilt and punishment. D.C.C.E. § 11–1553.

4. Infants ⇐16.5.

In District of Columbia Juvenile Court proceedings the state is parens patriae rather than prosecuting attorney and judge.

5. Infants ⇐68.

Waiver provision of District of Columbia Juvenile Court Act is not excluded from the fundamental philosophy of parens patriae which underlies the statute. D.C.C.E. §§ 11–1553, 16–2316.

6. Infants ⇐68.

Social philosophy underlying District of Columbia Juvenile Court Act forbad waiver by juvenile court of juvenile afflicted with serious mental illness, since such waiver was not necessary for protection of society and was not conductive to juvenile's rehabilitation. D.C.C.E. § 11–1553.

Messrs. Myron G. Ehrlich and Samuel A. Stern, Washington, D.C., with whom Mr. David L. Chambers, III, Washington, D.C. (all appointed by this court) was on the brief, for appellant. Mr. Robert A. Warden, Washington, D.C., was also on the brief for appellant.

Mr. Thomas Lumbard, Asst. U.S. atty., with whom Messrs. David Bress, U.S. Atty, Frank Q. Nebeker and Allan M. Palmer, Asst. U.S. Attys., were on the brief, for appellee.

Before Bazelon, Chief Judge, and Burger and McGowan, Circuit Judges.

Bazelon, Chief Judge:

The Supreme Court has recently revolutionized the procedural aspects of juvenile court proceedings.[1] Today we face the more fundamental issue of the substantive role of juvenile courts. In particular we must determine what obligations juvenile authorities, acting as *parens patriae*, have with respect to mentally disturbed adolescents.

I

At the age of sixteen the appellant, Morris Kent, was accused of committing several robberies and rapes. He was waived by the juvenile court and indicted on three counts of housebreaking, three counts of robbery, and two counts of rape. A jury returned a verdict of guilty on the housebreaking and robbery counts and not guilty by reason of insanity on the rape counts. The district court sentenced him to thirty to ninety years, with credit for the time spent in Saint Elizabeths Hospital pursuant to D.C. Code § 24–301(d).[2]

Kent appealed his conviction, contending that the juvenile court had waived him without an adequate hearing. After this court affirmed his conviction, the Supreme Court reversed and directed the district court to hold a full-dress *de novo* hearing to determine whether Kent should have been waived in 1961.[3]

At the remand hearing, the district court, sitting as a juvenile court, found that the 1961 waiver was "appropriate and proper." We conclude that, due to inaccuracies in several of the district court's findings, its decision cannot be sustained. We conclude further that, in view of the district court's finding that Kent was suffering from a serious mental illness, waiver was inappropriate.

II

Many of the findings below are incontestable. Morris Kent had "engaged in extensive criminal activity characterized by aggressiveness and violence" and had not responded satisfactorily to his previous contacts with the juvenile court. He "was suffering from a psychosis known as schizophrenic reaction, chronic undifferentiated type" and "there was reason to believe that a period of time beyond the limits of the juvenile court's jurisdiction was required for reasonable prospects of rehabilitation". Moreover, the juvenile court's long-term confinement facilities could not provide adequate psychiatric treatment for psychotic children.

Because of the obvious inadequacy of the juvenile detention facilities, Kent urged that the juvenile court should have taken steps to civilly commit him to Saint Elizabeths Hospital. The district court found that Kent was indeed civilly committable in 1961. But it determined that "because of the defendant's potential danger to himself and/or others his civil commitment in 1961 was an inappropriate alternative to waiver in the district court." This finding turns civil commitment law on its head. Under D.C. Code § 21–541, a person may be involuntarily committed *only* if "[he] is likely to injure himself or other persons" due to mental illness. Dangerousness does not make civil commitment "inappropriate"; it makes civil commitment appropriate.

In rejecting civil commitment, the court relied on a series of Government-proposed findings to the effect that civil commitment did not provide adequate protection for society. The reliance is misplaced since these findings are based on erroneous assumptions and unwarranted speculations. One finding divined that on civil commitment, Saint Elizabeths Hospital would have committed defendant to a nonsecurity facility from which he could elope, rather than to the maximum security facility, John Howard Pavilion. But the record does not convince us that Saint Elizabeths would be so negligent and incompetent as to knowingly place a person who needed a secure setting in a nonsecure one.[4] Another finding was that a "person who is civilly committed to Saint Elizabeths Hospital may be released by the doctor in charge of the case without any prior court authorization," the implication being that the doctor may act negligently or ignorantly. Pursuing this speculation further, the court found that if the defendant were released before age twenty-one the juvenile court could not have reinstated charges because "as a matter of practice" it would drop charges against a child committed to Saint Elizabeths. There is no support in the record for a determination that Saint Elizabeths' doctors will prematurely recommend release for criminally dangerous psychotics.[5] And if they did release Kent before age twenty-one, the juvenile court could have reinstated charges. The fact that charges had been dropped in a few cases in the past does not mean they had to be dropped in Kent's case.

Since the district court's decision that waiver "was appropriate and proper" was based heavily on these defective findings, the decision must be vacated and set aside.

III

Both the Supreme Court and this court have stated that "[I]t is implicit in [the juvenile court] scheme that noncriminal treatment is to be the rule—and the adult criminal treatment, the exception which must be governed by the particular factors of individual cases." Kent v. United States, 383 U.S. 541, 560, 86 S.Ct. 1045, 1057, 16 L.Ed.2d 84 (1966) quoting with approval Harling v. United States, 111 U.S.App.D.C. 174, 177–178, 295 F.2d 161, 164–165 (1961). We believe that on the facts of this case waiver was inappropriate.[6]

[1–4] It is true that the juvenile court has "a substantial degree of discretion" in determining whether to retain jurisdiction over a child. Kent v. United States, 383 U.S. at 554, 86 S.Ct. 1045, 1954. But this discretion must be exercised in accordance with the spirit of the Juvenile Court Act. As the Supreme Court said in *Kent:*

"The theory of the District's Juvenile Court Act, like that of other jurisdictions, is rooted in social welfare philosophy rather than in the corpus juris. Its proceedings are designated as civil rather than criminal. The Juvenile Court is theoretically engaged in determining the needs of the child and of society rather than adjudicating criminal conduct. The objectives are to provide measures of guidance and rehabilitation for the child and protection for society, not to fix criminal responsibility, guilt and punishment. The State is *parens patriae* rather than prosecuting attorney."

[5] Congress had made clear that the waiver provision (D.C.Code § 11–1553) is not excluded from this fundamental philosophy of *parens patriae*. D.C.Code § 16–2316 states:

"Sections 11–1551 to 11–1554 * * * shall be liberally construed so that, with respect to each child coming under the court's jurisdiction: * * * (3) when the child is removed from his own family, the court shall secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given him by his parents."

Parens patriae requires that the juvenile court do what is best for the child's care and rehabilitation so long as this disposition provides adequate protection for society.[7] In the instant case, no concern was shown for Kent's care and rehabilitation, and mechanisms by which society could be protected were ignored.

The juvenile authorities who waived Kent knew that he was seriously ill and in need of treatment.[8] The Government argues, however, that their decision to waive does not indicate a lack of concern for Kent's care and rehabilitation. It emphasizes that "if a waived juvenile is found not guilty by reason of insanity, the psychiatric facilities of the district court are, of course, at least as adequate as those available to the Juvenile Court. * * *[9] The argument is, at best, disingenuous. It overlooks the fundamental point that waiver is a judgment that an adult criminal prosecution should be instituted against the juvenile. The purpose of this exercise is to obtain a conviction for which the juvenile may be penalized as an adult. The exercise succeeded when the jury convicted Kent on several counts even though it recognized full well that he was suffering from a serious mental illness.

Treatment of a sick juvenile is not a concern of an adult criminal proceeding. Kent's case bears this out. Before trial the district court sent him to District of Columbia General Hospital and then to Saint Elizabeths Hospital for mental examinations, not treatment. Upon completion of these examinations on April 9, 1962, he spent eleven months in a prison prior to trial without any psychiatric attention.[10]

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[1] In re Gault, 387 U.S. 1, 87 S. Ct. 1428, 18 L. Ed. 2d 527 (1967).

[2] He has been in Saint Elizabeths Hospital ever since trial.

[3] Kent v. United States, 383 U.S. 541, 86 S. Ct. 1045, 16 L. Ed. 2d 84 (1966). The Supreme Court did not consider several substantive issues raised by Kent. In view of our present disposition of the case, we do not consider them either.

[4] Dr. Owens testified that "ordinarily" civilly committed patients are not placed in John Howard unless they have escaped from or caused trouble in other wards. But we cannot assume that persons requiring maximum security in John Howard will not be placed there simply because they were civilly committed or, conversely, that persons not requiring maximum security will be placed in John Howard simply because their commitment arose out of criminal proceedings. If the Hospital is following erroneous practices, the court should expressly reject them, rather than rely on them. We note that there may be many situations in which criminally dangerous persons enter Saint Elizabeths via civil commitment. See, *e.g.*, Cameron v. Mullen, 128 U.S.App.D.C. 235, 387 F.2d 193 (1967); Naples v. United States, 127 U.S.App.D.C. 249, 382 F.2d 465, 466 n. 1 (1967).

[5] We note also that this court has heard numerous D.C.Code § 24–301(d) cases in which Saint Elizabeths' doctors oppose the release of persons whose stay at the Hospital far exceeds the maximum sentence for the offense with which they were charged. See *e. g.*, Ragsdale v. Overholser, 108 U.S.App.D.C. 308, 281 F.2d 943 (1960); Overholser v. O'Beirne, 112 U.S.App.D.C. 267, 302 F.2d 852 (1961).

[6] We view our role here as being similar to that in habeas corpus proceedings. In habeas corpus proceedings, the appellate court can examine the record and, without remanding, reach a conclusion contrary to that reached below. See *e. g.*, United States ex rel. Bloeth v. Denno, 313 F.2d 364 (2d Cir.) cert. denied, 372 U.S. 978, 83 S.Ct. 1112, 10 L.Ed.2d 143 (1963); Bailey v. Henslee, 287 F.2d 936 (8th Cir.) cert. denied, 368 U.S. 877, 82 S.Ct. 121, 7 L.Ed.2d 78 (1961).

[7] The director of social work for the Juvenile Court testified below that "the Juvenile Court is obligated to deal with children who have violated the law and to arrive at a disposition wherever possible, which is in the best interest of the child and not inconsistent with the best interest of the community as a whole. * * *"

[8] The juvenile authorities had received a letter from a respected psychiatrist stating that Kent was "suffering from a severe psychopathological state. * * *" The judge who waived Kent noted that he "needs long-term close supervision and perhaps residential psychiatric treatment."

[9] Brief for Appellee, p. 15.

[10] Long delays, especially in capital cases, are virtually inevitable. For this reason, the

To all intents, psychiatric care was withheld from this schizophrenic juvenile for eighteen months from the date of his arrest while he was undergoing the trauma inherent in the incidents of a criminal prosecution. When he finally entered a hospital for treatment, a thirty to ninety year prison sentence loomed over him, undoubtedly impairing his chances of recovery.

It seems clear that the chief reason for waiver was that the juvenile court could retain jurisdiction over Kent for only five years and that he was unlikely to recover within this period. The paradoxical result is that the sicker a juvenile is, the less care he receives from the juvenile court. Since it may not be possible to guarantee that a very sick adolescent will recover by the time he is twenty-one, he will invariably be subjected to all the strains and stresses of a criminal prosecution, with only the hope that the Government will not succeed in its effort and that he may ultimately receive treatment pursuant to D.C. Code § 24–301(d).[11]

Perhaps even this harsh result might be justified if there is no other way to protect society. But it is clear that society can be protected without departing from civilized standards for the prompt and adequate care of disturbed children. The juvenile court can institute civil commitment proceedings against the youngster. If commitment ensues, he will be confined and treated until he is no longer dangerous due to mental illness.[12] If not, the juvenile court will be free to follow its usual procedures.

[6] Since waiver was not necessary for the protection of society and not conducive to Kent's rehabilitation, its exercise in this case violated the social welfare philosophy of the Juvenile Court Act. Of course, this philosophy does not forbid all waivers. We only decide here that it does forbid waiver of a seriously ill juvenile.

IV

Since Morris Kent should not have been waived in 1961, the subsequent criminal proceedings were invalid and must be vacated. This does not mean, however, that he will be released from Saint Elizabeths Hospital. The Government can institute civil commitment proceedings against Kent to ensure that he remains in the Hospital. We think the institution of commitment proceedings is demanded by appellant's long history of serious illness accompanied by sordid behavior. Such proceedings will assure his confinement for treatment for as long as the public safety requires. And to avoid any gap in Kent's confinement, we stay our mandate in this case until the commitment proceedings have been completed, provided they are instituted within thirty days.[13]

We reverse the decision of the district court and direct it to vacate the prior judgment of the district court in accordance with this opinion.

Reversed.

APPENDIX D

§ 11–1553 WAIVER OF JURISDICTION IN CASE OF FELONY AND TRANSFER OF CASE

When a child 16 years of age or over is charged with an offense which if committed by a person 18 years of age or over is a felony, or when a child under 18 years of age is charged with an offense which if committed by a person 18 years of age or over is punishable by death or life imprisonment, a judge may, after full investigation, waiver jurisdiction and order the child held for trial under the regular procedure of the court which would have jurisdiction of the offense if committed by a person 18 years of age or over; or the other court may exercise the powers conferred upon the Juvenile Court by this chapter and subchapter I of chapter 23 of Title 16 in conducting and disposing of such cases. (Dec. 23, 1963, 77 Stat. 499, Pub. L. 88–241, § 1, eff. Jan. 1, 1964.)

APPENDIX E

SEC. 5. Section 11–1104, District of Columbia Code, is amended to read as follows:

"§ 11–1104. Transfer for criminal prosecution

"(a) Within five days after the filing of a delinquency petition and prior to a factfinding hearing on the petition, the Corporation Counsel, following consultation with the Director of Social Services, may file a motion requesting transfer of the child for criminal prosecution, if:

"(1) the child was fifteen or more years of age at the time of the conduct charged, and is alleged to have committed an act which would constitute a felony if committed by an adult;

"(2) the child is sixteen or more years of age and is already under commitment to an agency or institution as a delinquent child; or

"(3) a minor eighteen years of age or older is alleged to have committed a delinquent act prior to having become eighteen years of age.

"(b) Following the filing of the motion by the Corporation Counsel, summonses shall be issued and served in conformity with the provisions of subchapter I of chapter 23 of title 16.

"(c) When there are grounds to believe the child is mentally retarded or mentally ill, the Division shall stay the proceedings for the purpose of obtaining an examination. After examination, the Division shall proceed to a determination under subsection (d) unless it determines that child is incompetent to participate in the proceedings, in which event it shall order the child committed to a mental hospital pursuant to section 16–2312(c)(2) of this Code or section 927 of the Act of March 3, 1901 (31 Stat. 1340), as amended (D.C. Code, sec. 24–301(a)).

"(d) Not later than fifteen days after the motion requesting transfer is filed, if the child is not in custody at the time of said filing, or, otherwise, not later than one week after said filing, the Division shall conduct a hearing on the motion for the purpose of determining whether there are reasonable prospects of rehabilitating the child prior to his majority, unless a commitment pursuant to subsection (c) has intervened. If the Division finds that there are not reasonable prospects for rehabilitating the child prior to his majority, it shall transfer the child for criminal prosecution and notify the United States attorney.

"(e) Evidence of the following factors shall be considered in determining whether there are reasonable prospects for rehabilitating a child prior to his majority:

"(1) the child's age;

"(2) the nature of the present offense and the extent and nature of the child's prior delinquency record;

"(3) the child's mental condition;

"(4) the nature of past treatment efforts and the nature of the child's response to past treatment efforts; and

"(5) the techniques, facilities, and personnel for rehabilitation available to the Division and to the court that would have jurisdiction after transfer.

"The rules of evidence at transfer hearings shall be the same as those that govern dispositional proceedings in delinquency cases, as set forth in section 16–2313 of this Code. At a transfer hearing, only the propriety of eventual Family Division disposition shall be considered, and evidence bearing on probable cause or the likelihood that the child committed the act alleged shall not be admitted.

"(f) Prior to a transfer hearing, a study and report, in writing, relevant to the factors in subsection (e), shall be made by the Director of Social Services. This report and all social records that are to be made available to the judge at the transfer hearing shall be made available to counsel for the child and to the Corporation Counsel at least two days prior to the hearing.

"(g) When a child is transferred for criminal prosecution, the presiding judge shall set forth in writing his reasons therefor. These written findings shall be available, upon request, to any court in which the transfer is challenged, but shall not be available to the trier of fact on the criminal charge prior to verdict.

"(h) Transfer of a child for criminal prosecution terminates the jurisdiction of the Family Division over the child with respect to any subsequent delinquent act; except that jurisdiction of the Family Division over the child is restored if the criminal prosecution is terminated other than by a verdict of guilty or not guilty by reason of insanity and if at the time of said termination no indictment or information has been filed for criminal prosecution for an offense alleged to have been committed by the child subsequent to transfer.

"(i) A judge who conducts a hearing pursuant to this section shall not, over the objection of the child whose prospects for rehabilitation were at issue, participate in any subsequent factfinding proceedings relating to the offense."

TRANSFER FOR CRIMINAL PROSECUTION

Section 5 of the bill S. 2981 is designed to render more viable the procedure available in the existing juvenile court, whereby the occasional case which is clearly inappropriate for disposition by the juvenile court may be transferred to the adult criminal division.

The most significant change which section 5 effects is to replace the existing theory underlying transfer (and, with it, the ultimate finding required of the court at the transfer hearing)—that transfer is warranted where criminal prosecution is appropriate—with a similar but more easily determinable theory (and, with it, a more easily determinable ultimate finding for the court to make at the transfer hearing)—that transfer is warranted where juvenile disposition is not appropriate.

The revised theory (and ultimate finding) reflects the fact that there exists a special purpose for juvenile disposition, while the ordinary course in detailing with unlawful conduct is to proceed to criminal trial. Historically and as a matter of continued legislative policy, juvenile disposition has been provided specially, so that children, who might reasonably be "redeemed" before the age of 21 by means of rehabilitative therapy alone, can be spared the harsh anomoly of reasonably complete rehabilitation simultaneous with the stigma of criminal conviction. Historically and as a matter of legislative policy, at least under the pending juvenile code, the residual course, where purpose perforce is less well defined, consists of prosecution in the adult court, the Criminal Division.

For the reasons just described, the change in underlying the theory creates a transfer mechanism weighted, in effect, in favor of criminal prosecution: the finding to be made relates to the appropriateness of juvenile dis-

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present director of social work for the juvenile court testified that he would not recommend waiver if the juvenile had mental problems because "we would consider this a more urgent consideration in the case and attempt to secure the necessary medical care."

[11] If convicted, a person can obtain extensive psychiatric care only if the director of the Department of Corrections transfers him to a mental hospital. See D.C. Code § 24–302.

[12] See D.C. Code §§ 21–546, 548.

[13] See Barry v. Hall, 68 App. D.C. 350, 98 F. 2d 222 (1938).

position and there need be no affirmative showing regarding the appropriateness of the alternate course of transfer to the Criminal Division.

The Senate District Committee has disapproved, however, the further, procedural presumption proposed in S. 2981 as introduced—whereby transfer was mandated (in cases where a motion for transfer has been filed) unless the child were to prove that he ought not to be transferred. The bill as reported by the committee, to the contrary, mandates transfer only where the Government has shown that the child ought to be transferred, that is, where the Government has shown that juvenile disposition would not be appropriate.

In this last regard, the committee has specifically adopted the recommendation of the HEW Guide. The purpose of the amendment is to retain ultimate decisionmaking power in the court as to an inquiry which can only be pursued fairly if the court is allowed to exercise considerable discretion. (It should be recalled that transfer is intended to operate in the unusual case—and not in every case where the child and the offense create eligibility, nor even in every eligible case where the Government has filed the requisite motion.)

It is the committee's objective also to assign the burden of proof to that party which can more easily bear it. The committee has concluded that, as in most cases, supporting evidence will be more easily obtained by the moving party, the party bringing the motion. Similarly, Government Counsel (the Corporation Counsel), the committee has concluded, will ordinarily be more experienced wtih juvenile proceedings and more familiar with the treatment available in the juvenile system.

A further feature of proposed section 11–1104, District of Columbia Code (the transfer provision in section 5 of the pending bill) designed to render the transfer procedure viable consists of the enumeration of factors which must be considered at the transfer hearing. The list (in subsection (e)) is not intended to be exclusive, nor is any particular legislative intent directed to the inferences to be drawn from or weight to be assigned to evidence of the stated factors. Nevertheless, the committee's expectation is that the statutory listing will forestall a substantial amount of litigation which might otherwise arise in the development of guidelines for transfer on a case-by-case basis.

Eligibility for transfer is extended in S. 2981 in two notable respects: a motion may be filed for the transfer of a 15-year-old charged with a felony; and a 16-year-old may be transferred in a case involving a misdemeanor if the offense is committed while the child is under commitment as a delinquent.

It should be noted again that, rather than the statistics with which the District Committee was supplied indicating simply a substantial incidence of serious criminal conduct among 15-year-olds, the committee would have preferred to receive more direct evidence, impunging the 15-year-old's potential for rehabilitation, before being asked to approve the eligibility of certain 15-year-olds for transfer away from the juvenile system. Nevertheless, the committee recognized that eligibility for transfer is substantially less significant of itself under circumstances where there must be a showing in every transfer case (as is required under S. 2981 as reported) that juvenile dispositon is inappropriate.

The eligibility of 16-year-old misdemeanants under delinquency commitment represents a substitute for the elimination of the mechanism for transferring uncontrollable delinquents to an adult facility. (See *Categories of juveniles*, above.) It is anticipated that a motion for transfer will be brought when the misconduct of a delinquent in an institution cannot be handled effectively. It should not matter in such a case whether the misconduct amounts to a felony or a misdemeanor, if the supervisory authorities are moved to complain. There must be some mechanism available for relieving the juvenile institutions of the burden of uncontrollable juveniles; and, as between administrative transfer and fresh adjudication, the Senate District Committee deems the latter preferable.

Lastly, S. 2981 as introduced provided that, upon transfer, jurisdiction of the Family Division terminates with respect to any other delinquent acts—apparently irrevocably, regardless of the nature of the disposition in the Criminal Division, and apparently with regard to both pending and subsequent acts. The Senate District Committee has revised this provision so that (1) Family Division jurisdiction terminates as to any delinquent act committed subsequent to transfer, as is provided in the HEW Guide, with the understanding that, where circumstances warrant, the Family Division can terminate or suspend proceedings with respect to nonsubsequent acts. Also (2) under S. 2981 as reported, except where further criminal charges have been filed on the basis of conduct subsequent to transfer, Family Division jurisdiction over a child who has been waived is restored in the event that he is not convicted of the charge for which he is transferred.

In the opinion of the committee, Family Division jurisdiction must be restored where the basis of transfer has been invalidated. The committee recognized that the ultimate finding, regarding the reasonable prospects of rehabilitation, consists of a prediction as to the nature of the child's social character at the time of disposition. So too, the committee recognized that a great revelance to this prediction is the nature of the misconduct which, at the time of any dispositional hearing, the child will have been found to have committed. Yet, in the committee's opinion, it follows logically—from the fact that the transfer finding amounts to prediction and from the assumption in that prediction that the child has committed the acts alleged—that a child who is found *not* to have committed the acts may well *not* suffer from the lesser prospects of rehabilitation predicted, and ought to be returned to the juvenile system.

The provision, that criminal charges based on misconduct subsequent to transfer bar the restoration of Family Division jurisdiction, simply constitutes a practical tempering of the logic just described. This tempering is justifiable in that the nature of the pending charge is only one of several factors considered at the transfer hearing, and as an accommodation of the demands of administrative ease. Moreover, a juvenile found not guilty by reason of insanity is not restored, first, for the practical reasons just stated, and secondly, because the adult Criminal Division is no less well equipped to dispose fairly of mental health cases.

SUPPLEMENTAL APPROPRIATIONS BILL, 1970—CONFERENCE REPORT

Mr. BYRD of West Virginia. 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. 15209) making supplemental appropriations 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 assistant legislative clerk read the report.

(For conference report, see House proceedings of December 20, 1969, p. 40459, 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. BYRD of West Virginia. Mr. President, this bill passed the Senate on December 18, 1969, containing recommended appropriations in the amount of $296,877,318. The Senate had considered budget estimates in the amount of $314,597,852. The amount finally agreed to in conference today is $278,281,318. I have before me the complete details on each item in this bill, and should any Member desire to ask me any questions I would be happy to answer them.

One of the most important Senate amendments in this bill relates to the coal mine safety bill, which has just been sent to the President for his consideration. The Senate will recall that we included, under the Bureau of Mines for health and safety in the Senate bill, $15 million and under the Department of Health, Education, and Welfare, we included $10 million for consumer protection and environmental health services—for a total of $25 million relating to this new Coal Mine Safety Act. I am glad to report that in conference we were able to secure a total of $22 million, consisting of $12 million for the Bureau of Mines and $10 million for the Department of Health, Education, and Welfare.

The Senate had included $209,000 in this bill, under the Bureau of Sport Fisheries and Wildlife, for the preservation of the Steamboat *Bertrand* and its cargo at the DeSoto National Wildlife Refuge in Nebraska. Although we were not able to secure the full amount of the Senate bill in conference, we were able to secure approximately one-half—namely $105,000. Under "Construction" in the Bureau of Sport Fisheries and Wildlife, the conferees agreed to $2,300,000, and the managers on the part of the Senate are hopeful that the Bureau will be persuaded to use part of these funds for planning permanent storage and display facilities for the Steamship *Bertrand* and the artifacts found in the vessel.

The conferees also approved a figure of $50,000 for the reconstruction of certain streets in Harpers Ferry, W. Va.

In addition, the conferees approved $1,952,000, which was the amount of the Senate amendment, for the "Construction of Indian health facilities" item, to provide a community hospital in Fairbanks, Alaska. This amount will allow the Indian Health Service to participate so as to assure 18 beds and clinic space for Alaskan natives.

In section 1003 of the bill, the Senate had extended the continuing resolution to January 30, 1970, and the House conferees agreed to the Senate proposal in this regard.

Mr. President, in my view, the most

important amendment in this bill is section 1004, reaffirming the authority delegated to the Comptroller General to determine the legality of expenditure of appropriated funds.

The Senate voiced its will on that particular amendment during four rollcall votes on last Thursday. The House today has rejected the Senate position, and so we come back this evening to receive the instructions of the Senate on this point and on other points.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state his parliamentary inquiry.

Mr. JAVITS. If we adopt the conference report, does that leave the question open on what I think is section 1004? Is that an item in disagreement?

The PRESIDING OFFICER. The Chair will examine the bill.

Mr. JAVITS. What is the section which deals with the power of the Comptroller General? I do not have the bill before me.

The PRESIDING OFFICER. The section pertaining to the Comptroller General, amendment No. 33, is a matter that is still in disagreement, and thus will still be open.

Mr. JAVITS. And will be submitted to the Senate after the conference report is agreed to?

The PRESIDING OFFICER. As an amendment in disagreement.

Mr. JAVITS. I thank the Chair.

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

The report was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The ASSISTANT LEGISLATIVE CLERK. Resolved, that the House recede from its disagreement to the amendments of the Senate numbered 8, 13, 19, 29, and 32, and concur therein with amendments.

The amendments in disagreement numbered 8, 13, 19, 29, and 32 are as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 8 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert;

"BUREAU OF MINES

"Health and Safety

"For an additional amount for expenses necessary to improve health and safety in the Nation's coal mines, $12,000,000: Provided, That this paragraph shall be effective only upon the enactment into law of S. 2917, 91st Congress."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 13 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$50,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:

"DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

"Consumer protection and environmental health services environmental control

"For expenses necessary to improve health and safety in the Nation's coal mines, $10,000,000: Provided, That this paragraph shall be effective only upon the enactment into law of S. 2917, 91st Congress."

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 29 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the sum named in said amendment, insert: "$4,000,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment, as follows:

In lieu of the matter proposed by said amendment, insert:

"Sec. 1003. Section 102 of the Act of November 14, 1969 (Public Law 91–117), as amended, is further amended by striking "the sine die adjournment of the first session of the Ninety-first Congress" and inserting in lieu thereof, 'January 30, 1970'."

Mr. BYRD of West Virginia. Mr. President, I move that the Senate concur in the amendments of the House to the amendments of the Senate numbered 8, 13, 19, 29, and 32.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. Do any of those amendments relate to the matter previously inquired about by the Senator from New York?

The PRESIDING OFFICER. No. The question raised by the Senator from New York was on amendment number 33.

Mr. GRIFFIN. I thank the Chair.

The PRESIDING OFFICER. Which will be acted on separately.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. (Putting the question.)

The motion was agreed to.

Mr. SCOTT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Pennsylvania will state it.

Mr. SCOTT. May I now inquire as to whether the next order of business is amendment numbered 33?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, it is my intention to move shortly to table the Senate amendment. Am I correct in my interpretation that if the tabling motion succeeds, the Senate language will be stricken from the bill, and, since the House has already disagreed to the Senate language, that will have the effect of eliminating from the report all reference to the so-called Philadelphia plan?

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

Mr. SCOTT. May I have a ruling on mine, first?

The PRESIDING OFFICER. The Chair is taking the parliamentary inquiry of the Senator from Pennsylvania first, if the Senator from Nebraska will bear with the Chair.

If amendment number 33 were tabled, it would have the same effect as a motion to recede, which would take the Senate language out of the bill.

Mr. SCOTT. Mr. President, may I be recognized?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SCOTT. Now I will be glad to yield to the Senator from Nebraska.

Mr. HRUSKA. Mr. President, reference was made by the Senator from Pennsylvania as to whether that action would result in the complete elimination of any reference to the Philadelphia plan. The Senator from Nebraska would like to be informed where there is reference to the Philadelphia plan in this bill.

The PRESIDING OFFICER. The Chair answers the parliamentary inquiry of the Senator from Nebraska by referring to the question previously raised by the Senator from New York, which referred to amendment numbered 33, which is an amendment in disagreement—without trying to capsulize the amendment.

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

Mr. SCOTT. Mr. President, may I first read amendment numbered 33, so there will be a clarification of what we are discussing? That section reads:

Section 1004 reads as follows:

SEC. 1004. In view of and in confirmation of the authority invested in the Comptroller General of the United States by the Budget and Accounting Act of 1921, as amended, no part of the funds appropriated or otherwise made available by this or any other Act shall be available to finance, either directly or through any Federal aid or grant, any contract or agreement which the Comptroller General of the United States holds to be in contravention of any Federal statute: *Provided*, That this section shall not be construed as affecting or limiting in any way the jurisdiction or the scope of judicial review of any Federal court in connection with the Budget and Accounting Act of 1921, as amended, or any other Federal law.

I now yield for a parliamentary inquiry.

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. First, is a motion to table debatable?

The PRESIDING OFFICER. A motion to table is not debatable.

Mr. DOLE. Second, if the motion to table fails, where are we? We are here tomorrow, in other words?

Mr. SCOTT. And Christmas and New Year's.

The PRESIDING OFFICER. If the motion to table fails, the amendment in disagreement would be before this body.

Mr. JAVITS. And would be debatable.

The PRESIDING OFFICER. And would be debatable.

Mr. SCOTT. And if the motion to table fails, as far as the Chair is able to advise us, we may be here for Christmas or New Year's?

The PRESIDING OFFICER. The motion is debatable for quite some time.

It has been pointed out to the Chair by the Parliamentarian that the clerk has not reported the amendment.

Mr. SCOTT. May we have the clerk report the amendment?

The PRESIDING OFFICER. The clerk will read.

Mr. SCOTT. Without my yielding the floor.

The assistant legislative clerk read as follows:

Resolved, That the House insist upon its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill.

Mr. HOLLAND. Mr. President——

Mr. SCOTT. Mr. President, I have the floor.

Mr. HOLLAND. The Senator yielded the floor when he asked for the reading.

Mr. SCOTT. The Chair recognized me.

The PRESIDING OFFICER. The Chair believes the Senator from Pennsylvania had the floor and, as a courtesy to the Chair, asked that the amendment be reported.

Mr. SCOTT. As a courtesy only, and I still have the floor.

Mr. HOLLAND. Mr. President——

Mr. SCOTT. I yield for a question.

Mr. HOLLAND. I do not care to ask a question, but there are certain documents I would like to put in the RECORD.

Mr. SCOTT. I have no objection to that if, by so agreeing, I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Pennsylvania?

The Chair hears none, and it is so ordered.

Mr. HOLLAND. I thank the Senator.

The PRESIDING OFFICER. The Senator from Florida.

Mr. HOLLAND. Mr. President, I ask unanimous consent that there be incorporated in the RECORD a paper appearing on my desk, bearing the name of Senator SCOTT, entitled, "For Immediate Release, December 22, 1969, Office of the White House Press Secretary, the White House, Statement by the President." I ask unanimous consent that that full statement appear in the RECORD at this time.

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

[For immediate release, Dec. 22, 1969, Office of the White House Press Secretary]

THE WHITE HOUSE—STATEMENT BY THE PRESIDENT

The House of Representatives now faces an historic and critical civil rights vote.

Tucked into the supplemental appropriations conference report is a provision vesting the Comptroller General a new quasi-judicial role. The first effect of this proposal will be to kill the "Philadelphia Plan" effort of this Administration to open up the building trades to non-white citizens. It is argued that the Administration seeks to restrict the role of the General Accounting Office and the Comptroller General. This is a false issue.

I wish to assure the Congress and the public of this nation that I consider the independence of the Comptroller General of the United States of the utmost importance in the separation of powers in our federal system. The amendment now under discussion by the Congress will not and should not be permitted to bring this principle into any doubt.

Of course, in the conduct of his independent review of all Executive actions, the Comptroller General may raise, and has often raised, questions about the legality of federal contracts and whether funds, according to the law, should be spent under such contracts. The Executive has always, will always, give the fullest attention to his recommendations and his rulings.

When rulings differ, however, when the chief legal officer of the Executive Branch and the chief watchdog of the Congress end up with opposing views on the same matter of law, the place for resolution of such differences, is the courts—just as it is for the resolution of differences between private citizens.

The amendment as presently written makes a court review extremely difficult, even questionable. For example, fourteen contracts have been let under the Philadelphia Plan. If the amendment passes, these contracts will have to be cancelled. If the contractors should not elect to sue, the Executive Branch of the Federal Government could not—and the matter would not reach the courts unless a member of my Cabinet were intentionally to violate the law.

The position I am taking is, therefore, that the amendment need not be stricken but that it should be modified to permit prompt court review of any difference between legal opinions of the Comptroller General and those of the Executive, and to permit the Comptroller General to have his own counsel (rather than the Attorney General) to represent him in such cases.

To be quite candid, I share the Attorney General's serious doubts as to the constitutionality of this amendment and may have to withhold my signature from any legislation containing it.

RICHARD M. NIXON.

Mr. HOLLAND. I call particular attention to these two paragraphs in the statement. The first is:

I wish to assure the Congress and the public of this nation that I consider the independence of the Comptroller General of the United States of the utmost importance in the separation of powers in our federal system. The amendment now under discussion by the Congress will not and should not be permitted to bring this principle into any doubt.

The second paragraph which follows that one reads as follows:

When rulings differ, however, when the chief legal officer of the Executive Branch and the chief watchdog of the Congress end up with opposing views on the same matter of law, the place for resolution of such differences, is the courts—just as it is for the resolution of differences between private citizens.

I wanted those two paragraphs in the RECORD, because it seems to me they are completely irreconcilable.

Mr. President, I ask also for the incorporation of certain sections from the law which governs this situation:

The first such item is subsection (d) of 31 U.S.C. 65. I ask unanimous consent that that be printed in the RECORD.

There being no objection, the designated portion of the statute was ordered to be printed in the RECORD, as follows:

(d) The auditing for the Government, conducted by the Comptroller General of the United States as an agent of the Congress be directed at determining the extent to which accounting and related financial reporting fulfill the purposes specified, financial transactions have been consummated in accordance with laws, regulations or other legal requirements, and adequate internal financial control over operations is exercised, and afford an effective basis for the settlement of accounts of accountable officers.

Mr. HOLLAND. Then I ask unanimous consent that the first paragraph in 31 U.S.C. 74 following the title "Certified Balances of Public Accounts; Conclusiveness; Suspension of Items; Preservation of Adjusted Accounts; Decision Upon Questions Involving Payments," be printed in the RECORD.

There being no objection, the designated portion of the statute was ordered to be printed in the RECORD, as follows:

CERTIFIED BALANCES OF PUBLIC ACCOUNTS; CONCLUSIVENESS; SUSPENSION OF ITEMS; PRESERVATION OF ADJUSTED ACCOUNTS; DECISION UPON QUESTIONS INVOLVING PAYMENTS

Balances certified by the General Accounting Office, upon the settlement of public accounts, shall be final and conclusive upon the Executive Branch of the Government, except that any person whose accounts may have been settled, the head of the Executive Department, or of the board, commission, or establishment not under the jurisdiction of an Executive Department, to which the account pertains, or the Comptroller General of the United States, may, within a year, obtain a revision of the said account by the Comptroller General of the United States, whose decision upon such revision shall be final and conclusive upon the Executive Branch of the Government. Nothing in this chapter shall prevent the General Accounting Office from suspending items in an account in order to obtain further evidence or explanations necessary to their settlement.

Mr. HOLLAND. I thank the Presiding Officer, and I thank the Senator from Pennsylvania. I thought it might be appropriate to have in the RECORD the laws that govern this situation, and the statement of the President, and then let the readers of the RECORD decide for themselves as to who it is who is trying to break down the authority of the Comptroller General and the independence of Congress through its arm, the Comptroller General, in seeing that the expenditure of appropriations, which can only be made by Congress, be safeguarded as to whether they are in accord with the directions of Congress.

I thank the Senator for yielding.

Mr. BYRD of West Virginia. Mr. President, will the Senator from Pennsylvania yield?

Mr. SCOTT. I may in a moment. Mr. President, I think the full statement of the President should be printed in the RECORD, and not only a part thereof.

Mr. HOLLAND. I requested that the full statement be included.

Mr. SCOTT. I thank the Senator. I read the concluding paragraph, in which the President says, referring to this bill:

To be quite candid, I share the Attorney General's serious doubts as to the constitutionality of this amendment and may have to withhold my signature from any legislation containing it.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield to me for a question?

Mr. SCOTT. If I may do so without losing my right to the floor, I shall be glad to yield to the Senator from West Virginia.

Mr. BYRD of West Virginia. Mr. President, it had been my intention to move that the Senate insist upon its amendment No. 33, after which I expected that the able Senator from Pennsylvania would either move to lay my motion on

the table, or move to recede, in which latter event his motion would have precedence over my motion to insist, and I thought the vote would then occur on his motion, whichever it was, the motion to lay on the table, which would have precedence, or the motion to recede.

Apparently he does not intend to give me an opportunity to move to insist. That was the purpose of my question: Does the Senator from Pennsylvania intend to give me an opportunity to move to insist?

Mr. SCOTT. Mr. President, I wanted to accommodate the distinguished Senator from West Virginia without losing the right to proceed in order, and in what I believe to be an orderly fashion, since the amendment, as I understand it, is before the Senate as a part of the conference report.

The PRESIDING OFFICER. The amendment in disagreement is before the Senate.

Mr. SCOTT. The amendment in disagreement, known as No. 33, is before the Senate. Therefore the issue may quite properly be raised without interfering with anyone's prerogative by a motion to lay on the table, or a motion to recede; is that not correct?

The PRESIDING OFFICER. The Senator is correct, the only difference being that a motion to lay on the table is not debatable.

Mr. PASTORE. Mr. President, will the Senator yield to me for a question?

Mr. SCOTT. Provided that I may do so without losing my right to the floor.

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

Mr. PASTORE. The Senator from Pennsylvania knows that I am quite sympathetic to his position on this particular amendment, but I think it would be unfair, on this very important issue, to shut off debate.

Could we not have a unanimous-consent agreement, let us say, for an hour or an hour and a half, so that both sides could be heard, and then let it come to a vote and be voted up or down? I think, no matter what the result, it would leave a better taste in everyone's mouth. I think both those opposed and those in favor should be heard, but we do not want to go on ad infinitum. I think that is the purpose of the Senator from Pennsylvania; so can we not have a limitation of debate here, for an hour, 2 hours, or whatever Senators desire, and then, both sides having been heard, we could take a vote?

Mr. SCOTT. Mr. President, I think the the distinguished Senator from Rhode Island has made a thoroughly reasonable suggestion. There is no desire to cut off debate under a limitation of time. What we are confronted with is a limitation of the session itself; and, confronted with a reality and not a theory, I am anxious to agree on a limitation of time, if we can, if, as a part of the unanimous consent request, it will include a right either to vote up or down or to lay on the table, as Senators may desire, and I would suggest that we agree on such a limitation of time.

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

Mr. SCOTT. Provided that I may do so without losing my right to the floor.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that there be a time limitation of 1 hour and a half on the pending question, with the stipulations contained therein as raised by the distinguished minority leader.

The PRESIDING OFFICER. The Chair advises the Senate that there is no question, before the Senate at this time. Further, the Chair wishes to say that if a motion to recede were made, with an agreement as to time, it would apparently accomplish what seems to be the desire of the minority leader.

Mr. BYRD of West Virginia. Mr. President, will the Senator yield for the purpose of making a motion?

Mr. SCOTT. Mr. President, I yield to the Senator from West Virginia for a suggestion as to a proposed motion.

Mr. BYRD of West Virginia. Mr. President, I move that the Senate insist on its amendment No. 33.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Several Senators addressed the Chair.

Mr. STENNIS. Mr. President, may we have orderly procedure so that we can hear?

Mr. MANSFIELD. Mr. President, on that basis, I now renew my request.

Mr. JAVITS. Mr. President, reserving the right to object, and I think we can work it out, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his parliamentary inquiry.

Mr. JAVITS. The Senator from West Virginia has made a motion that the Senate insist on its position. Now, a motion to recede has precedence, does it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. When that motion is made, following the disposition of the motion of the Senator from West Virginia, it is again debatable, is it not?

The PRESIDING OFFICER. That would be correct.

Mr. JAVITS. Therefore, I ask the majority leader, since we all know what we are after, should not that motion now be made? Then you have the final motion to lay on the table, and then the unanimous consent granted, which would apply to both, and then you are finished with it.

Mr. MANSFIELD. Mr. President, I amend it on that basis, and so move.

The PRESIDING OFFICER. Does the Senator now move to recede? Is that the motion?

Mr. SCOTT. That is right.

The PRESIDING OFFICER. Who makes the motion?

Mr. MANSFIELD. I so move, and ask unanimous consent that the time be equally divided between the minority leader and the manager of the bill.

The PRESIDING OFFICER. The time limitation to be for what period of time?

Mr. MANSFIELD. One hour and a half.

Mr. SCOTT. And at that time, there shall be a vote.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. MILLER. Mr. President, reserving the right to object, I should like to ask a question of the distinguished minority leader or the Senator from Virginia, so that I may be clear as to what we are doing.

I understand we have before the Senate a motion to insist; but suppose the Senate should feel disposed not to insist precisely on the language that is included in the bill, but suppose the Senate wants to have the conferees instructed to modify that provision to provide for judicial review, which, as I understand, is what the President's message proposes. How can we get that before the Senate, in the present parliamentary situation?

The PRESIDING OFFICER. Is that request addressed to the Chair?

Mr. MILLER. No, I am asking either the majority leader or the Senator from West Virginia, because the Senator from West Virginia is moving to insist.

I want to know if we are foreclosed if we support that motion from having the conferees instructed to modify that so that we will have the matter of judicial review before the Senate.

Mr. BYRD of West Virginia. Mr. President, I should think that the thing the Senate would want to do would be to vote against the motion to recede.

Mr. MILLER. I understand. However, then we have come to the motion to insist, and the motion to insist precludes us from asking the conferees to modify to provide for judicial review. And that is what the Senator from Iowa would like to do.

Mr. HRUSKA. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HRUSKA. Mr. President, it is competent for an amendment to be proposed to the subject matter of amendment No. 33?

The PRESIDING OFFICER. The Senate cannot further amend its own amendment.

Mr. HRUSKA. I think that is the answer, is it not, to the question of the Senator from Iowa?

Mr. MILLER. Mr. President, the Senator is not proposing to amend. The Senator from Iowa is proposing to instruct the conferees to follow the instructions and work out an arrangement whereby the amendment is preserved subject to judicial review.

We did that with the foreign aid bill the other evening. We instructed the conferees what to do.

I am not proposing that we have an amendment.

Mr. MANSFIELD. Mr. President, could we have a ruling on the time limitation and then raise the questions?

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

Mr. HRUSKA. Mr. President, reserving the right to object, if this discussion of the parliamentary situation will erode the time for debate on the merits, I think we ought either to enlarge the time or debate the parliamentary situation first.

Mr. JAVITS. Mr. President, will the

Senator yield for a parliamentary inquiry?

Mr. SCOTT. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, is it not a fact that if the motion to recede, which will take precedence, is voted up, that is the end of it?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And if it is voted down, the motion will then recur on the motion of Senator BYRD of West Virginia that the Senate stand by its position.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And if that is carried, the Chair will then probably be authorized to appoint the conferees. And after the Chair is authorized to appoint the conferees, and before he does appoint them, then any Senator may move to instruct the conferees.

The PRESIDING OFFICER. The Sentor is correct.

Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

Mr. MANSFIELD. Mr. President, at the conclusion of this time, which is not to exceed 1½ hours, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time is to be controlled and equally divided between the Senator from West Virginia (Mr. BYRD) and the Senator from Pennsylvania (Mr. SCOTT). Who yields time?

Mr. SCOTT. Mr. President, I yield myself 5 minutes at this time.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 5 minutes.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend until there is order in the Chamber.

Will all attachés remove themselves from the aisles?

The Senator from Pennsylvania is recognized.

Mr. SCOTT. Mr. President, among the issues here are, from the legal standpoint, whether the Comptroller General should be vested with the authority to do certain things which in the opinion of the Attorney General he does not have the constitutional authority to do.

This is by no means a derogation of the important functions of the Attorney General under the Accounting and Budgeting Act of 1921.

It is, however, important, where the Attorney General has exercised a judgment and handed down an opinion that a certain procedure in substantive law is legal, that the Comptroller General without the benefit of hearings or the necessity of formal argument—and he has no judicial experience and is not himself a lawyer—would hardly be in the position of being the chief reviewing officer without protection to the executive department or the right of appeal, and prompt appeal and prompt review by the courts.

The other body has already resolved this issue by a standing vote of something like 125 to 83, and by a record vote of 208 to 156.

The other body has said to us that it does not accept the wording of the Senate amendment.

And we are now under this motion asked to recede from the Senate amendment, a motion which I support.

The issue has some collateral effect because without a right of review, without protecting the right of the Attorney General to be heard here, without protecting the normal course of appeal to the courts, one element—and this is only one element in this very broad attempt to grant power to the Attorney General—is what is called the Philadelphia plan which is a plan to forbid discrimination in employment, a plan which we were told this morning would make available in the construction trade some 10 million jobs in the decade of the seventies, a plan which in one specific instance alone—that is the medicare and medicaid field—will make available 60,000 additional jobs without displacing a single nurse, nurse's aide, or hospital aide; a plan in which 14 contracts have already been signed, contracts which, according to the President's statement of this morning, would have to be canceled in the event the Senate language prevails. All of these represent an attempt to implement the right of any American to secure a job without discrimination.

There is another issue. It does not appear in the printed RECORD, but it ought to be mentioned. That issue is that the other body has included a continuing resolution in the Second Supplemental Appropriation Act. If this body strikes down that provision, the other House has adjourned until tomorrow.

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

Mr. SCOTT. Mr. President, I ask for 3 additional minutes.

The PRESIDING OFFICER. The Senator is granted 3 additional minutes.

Mr. SCOTT. Mr. President, if this body does not agree to the rather overwhelming action of the other body, this body and the other body may well decorate their Christmas trees within these Chambers. They may even be here to celebrate the arrival of the new year and to welcome in the decade of the 1970's.

There is another possibility which the President has raised quite clearly this morning. That is, if the continuing resolution and the second supplemental go to him wth the so-called Philadelphia plan deleted, there is a very considerable chance that he will veto the bill. This, again, would give us an opportunity to get better acquainted with one another as the year 1969 draws to a close. All of these things are attractive—the possibilities to know one another better, to welcome in the decade of the 1970's, to jingle our bells on the floor of the Senate, to welcome the new year.

But I think a more realistic and logical approach would be to accede to the action of the other body, actively debated and clearly decided there, urged by the President of the United States, and necessary if we are to have in this country equal opportunity for our citizens. It is not enough to say that all Americans may inhabit hospitals and hotels or eat at restaurants. If they do not have jobs and do not have money, all the other benefits of the various civil rights laws are of no value to them.

Mr. President, it having been suggested to me that no Senator needs to use all of his time, a suggestion with which I agree, I shall at this time yield the floor until some later time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized for 5 minutes.

Mr. HRUSKA. Mr. President, it is my intention to vote against the motion to recede. This is a subject of fundamental importance. It has been explained often that the presence in the Senate of this situation is triggered by the operations and activities under the awarding of certain construction contracts with a clause included in them incorporating the Philadelphia plan.

The position of this Senator deserves no apology of any kind in regard to his position on civil rights legislation. Starting with the act of 1957 and continuing steadily therefrom until the present day, this Senator has participated in the drafting of the legislation and has voted for every civil rights bill that now is in the statute books of the United States of America. At times there were long, protracted weeks of deliberation and negotiation to arrive at proper language that would be acceptable and workable. So that this Senator does have some knowledge of the background of the entire controversy.

No one would rather see a proportionate and a heavier representation of minority groups in construction jobs and construction positions than this Senator. Let there be no doubt about that. But, Mr. President, this Senator would draw a line on achieving that end if it is done by the violation of law, particularly when it is a fundamental law such as that involved here; and that fundamental law has its basis and its origins in the Budgeting and Accounting Act of 1921. That act says that the Comptroller General has the rights, the responsibilities, and the duties of, among other things, declaring expenditures illegal and not payable by the Government of the United States if he says that a law is being violated in the course of the proceedings on which claims are made against the United States. This is his job. That statute says in at least two places, expressly, that the ruling of the Comptroller General is final and conclusive upon the executive branch. That is what it says.

Now, then, what have we here? We have the Secretary of Labor making a decision to go ahead with certain construction contracts with the Philadelphia plan clauses. He meets with some remonstrance in Congress, and he comes here and has some conferences, and he is met in due time by a decision of the Comptroller General that this type of contract

is illegal, that it contravenes both titles VI and VII of the Civil Rights Act of 1964. Then he goes to the Attorney General and gets a contrary opinion. Then he revises that contract, and there is a second opinion, and the same division exists. Under those circumstances, the law still is that the decision of the Comptroller General is final and conclusive as to the executive branch.

I would be against receding on this motion for this reason. We should not proceed here to take any action that will be prejudicial to either side in this controversy, which ultimately must be decided in Congress. We will not have a fair vote at this late hour and this late day in the session. Our rate of absenteeism is very high. A vote tonight would not be representative and would not truly reflect the opinion of the Senate.

There is a desire for an orderly adjournment until January 19, so that, under a continuing resolution, the Department for which funds have not been provided will be provided for until we come back. That desire is in the way. I find no blame for Members who have felt that they wanted to leave and should leave.

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

Mr. HRUSKA. I ask for 3 additional minutes.

Mr. McCLELLAN. I yield 3 additional minutes to the Senator.

Mr. HRUSKA. I think this is a poor time to try to take a position here that would result in an adjudication of this matter to the prejudice of those who are contending one side or the other in the matter. A vote to lay on the table successfully disposed of, or this motion to recede, will not dispose of the issue. It still will be the law that the Comptroller General's opinion is final and binding upon the executive department. It still will be the law.

The harm is this, however: If we recede on this point, it will be taken by the executive department as a go-ahead signal to continue the entrance into additional contracts with the Philadelphia plan in them. It will be just piling up and adding to our troubles and our difficulties.

The issue on this vote is not whether the Comptroller General will have the right to rule expenditures illegal, nor will the proposition be whether his position is final or conclusive. That is going to stay as it is and as it has been for almost 50 years. Whether we approve or disapprove, the ruling of the Comptroller General is final and conclusive.

There are alternatives. One of them is contained in the President's statement tonight. One of them is to consider legislation which would enable either the Comptroller General or the Attorney General, or both, to go into court, with proper representation for both sides, not for the Comptroller General to be represented by the Attorney General as is mandatory under the present law. There is an alternative, but we cannot get at it tonight. We cannot get at it tonight because amendment 33, section 1004, is not amendable. We cannot consider those things.

I think it would be only fair to Congress and to the Senate that we not recede on this but that we keep it alive, in order that we can get at it at an early and suitable time in the next session.

At stake are the integrity and the sovereignty of Congress in the field of appropriations, in which it has a unique and a very powerful position under the Constitution, and which has been implemented by the Budgeting and Accounting Act of 1921. It will be gravely prejudiced if we recede on this point and throw this whole thing into a position of chaos, confusion, and uncertainty.

I urge that the motion to recede be rejected.

Mr. SCOTT. Mr. President, I yield 5 minutes to the distinguished Senator from Michigan (Mr. GRIFFIN).

Mr. GRIFFIN. Mr. President, I have listened with interest to the argument of the Senator from Nebraska, the very able and distinguished member of the Appropriations Committee.

The Senator makes the argument that the Senate should proceed in an orderly way; namely, that this matter not be disposed of this evening. I would agree with him that we should proceed in an orderly way to consider something so basic and important and fundamental as this; but, in my opinion, such a position would require the Senate to recede from its position and to remove from this supplemental appropriation bill a matter which is primarily legislative in nature, indeed, such a provision should never have been put in this appropriation bill in the first place.

Notwithstanding the vote of the Senate which overruled the point of order on this matter, it should have been clear that section 904—1004 in the conference report—constituted legislation on an appropriation bill.

This particular section speaks in terms of this or any other act. Its application is not limited to the use of funds appropriated in this act; it would apply to any act and reaches far beyond a mere limitation of the funds provided in this supplemental appropriation bill.

Furthermore, I would point out that to my knowledge no hearings have been held on this particular matter. It is a subject that should be considered, if at all, in the next session in appropriate hearings.

So I would say, and I appeal to my colleagues, that on procedural grounds alone, the motion to recede should be adopted.

Moreover, a very practical question confronts the Senate. Whether we like it or not, the other body has completed action on this bill and have adjourned until 11 o'clock tomorrow morning. It is highly questionable whether or not a quorum will be available tomorrow in the House of Representatives. Accordingly, they have most likely taken final action for this session on this bill. If we want to have a supplemental appropriation bill enacted—and such a bill is imperative since it includes a continuing resolution—it seems to me that as a practical matter in order to adjourn, we have to recede.

In addition, I would like to add that the junior Senator from Michigan strongly believes the Philadelphia plan deserves the support of the Congress. We should not pull the rug from under President Nixon's initial efforts to make the civil rights movement meaningful in economic terms at this stage in our history.

It is fine that we have passed civil rights laws and given the blacks the right to vote, the right to enjoy equal accommodations and so forth. But if he cannot obtain gainful employment, these other rights are rather meaningless.

It is well known that particularly in the construction industry, unions and jobs have been closed to the blacks. Obviously, under the circumstances, the action taken by the President is completely justified. And it is in accord with the policies and practices that other administrations have pursued and that this administration is pursuing, it is an action and a policy that deserves the support of the Senate and the Congress.

Mr. President, I urge Senators to support the motion to recede.

Mr. BYRD of West Virginia. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. BYRD of West Virginia. Mr. President, when the Senate passed supplemental appropriation bill (H.R. 15209) on December 18, it approved section 1004 by an overwhelming vote of 73 to 13.

As Senators will recall, this amendment, concerning which there was a thorough discussion, was adopted for the purpose of reaffirming the authority of the Comptroller General, as set forth in the Budget and Accounting Act of 1921, which authority had been challenged by an opinion issued by the Attorney General with regard to the so-called Philadelphia plan.

In the conference with the House on the supplemental appropriation bill, the conferees agreed on the need for this section and thus upheld the Senate position.

Although a good legislative record was made during debate on the floor as to the precise purpose of this section, and although I inserted all of the pertinent documents in connection therewith, I should like to state very briefly first how this controversy arose, and then restate again the need and the intent of section 1004.

First, as to how the controversy arose: On December 2, 1969, the Comptroller General wrote to me in my capacity as chairman of the Subcommittee on Deficiencies and Supplementals. In his letter he very concisely stated the problem and I should like to quote therefrom:

> I want to bring a matter to your attention which I think is of utmost importance to the Congress and to the General Accounting Office. This involves the "Philadelphia Plan" promulgated by the Department of Labor to increase the number of minority group workers in certain construction trades.
>
> The basic facts are (1) the Department of Labor issued an order requiring that major construction contracts in the Philadelphia area, which are entered into or financed by

the United States, include commitments by contractors to goals of employment of minority workers in specified skilled trades; (2) by a decision dated August 5, 1969, advised the Secretary of Labor that I considered the Plan to be in contravention of the Civil Rights Act of 1964 and would so hold in passing upon the legality of the expenditure of funds under contracts made subject to the Plan; and (3) the Attorney General on September 22, 1969, advised the Secretary of Labor that the Plan is not in conflict with the Civil Rights Act; that it is authorized under Executive Order No. 11246, and that it may be enforced in awarding Government contracts.

On the basis of the Attorney General's Opinion, the Department of Labor has proceeded with the Plan in the Philadelphia area, and it is planning to go ahead in several other metropolitan areas. Also, we understand that the Secretary of Transportation has adopted the "Philadelphia Plan" procedures in the awarding of highway construction contracts.

I want to make it clear that the General Accounting Office is not against greater opportunities for minority groups. However, we believe that actions taken by the Executive Branch in achieving this objective must be in accord with the laws enacted by the Congress. As stated in our opinion of August 5, 1969, we believe that the "Philadelphia Plan" is in conflict with Title VII of the Civil Rights Act of 1964 and is therefore unauthorized.

The Attorney General in his opinion of September 22, 1969, concluded with a statement that the contracting agencies and their accountable officers could rely on his opinion. Considering that the sole authority claimed for the Plan ordered by the Labor Department is the Executive order of the President, it is quite clear that the Executive Branch of the Government is asserting the power to use Government funds in the accomplishment of a program not authorized by Congressional enactment, upon its own determination of authority and its own interpretation of pertinent statutes, and contrary to an opinion by the Comptroller General to whom the Congress has given the authority to determine the legality of expenditures of appropriated funds, and whose actions with respect thereto were decreed by the Congress to be "final and conclusive upon the Executive Branch of the Government." We believe the actions of officials of the Executive Branch in this matter present such serious challenges to the authority vested in the General Accounting Office by the Congress as to present a substantial threat to the maintenance of effective legislative control of the expenditure of Government funds.

Mr. President, let me review briefly the basic issue which gave rise to the need for section 1004: The basic question for Congress was not whether the Philadelphia plan violates or does not violate the Civil Rights Act of 1964. The real question at issue is whether an opinion of the Comptroller General relative to the legality of the expenditure of appropriated funds is or is not "final and conclusive upon the executive branch of the Government."

While it is true that the issue arises from the desire of the executive department to encourage the hiring of more members of minority groups by Government contractors, this objective is secondary to the basic question presented: Whether the Congress—acting through its agent, the Comptroller General—has or does not have the final authority to determine the legality of obligating or expending appropriated funds.

The question presented must necessarily be answered in the affirmative. To say otherwise is to deny the constitutional authority of Congress over appropriated funds and thus limit the congressional function to simply approving or disapproving budget estimates submitted by the executive branch.

That the constitutional authority of the Congress is far broader is amply illustrated by its unchallenged actions when approving appropriations, to impose limitations and conditions on the expenditure of said funds.

The complete authority of Congress over appropriated funds is nowhere better illustrated than by the creation in 1921 and continued existence of the Office of Comptroller General, who exercises as the agent of Congress the delegated congressional authority to determine the legality of expenditures of appropriated funds.

Congress has decreed that such determinations will be "final and conclusive upon the executive branch of the Government."

By delegating its own constitutional authority to an agent, Congress in no way limits its authority. Thus, to advance the proposition that an advisory opinion of the Attorney General can overrule an opinion of the Comptroller General is to say that the executive branch is the final judge of the legality of the expenditure of appropriated funds. Such a proposition is not supportable by reference to the Constitution, nor by the precedents.

While the President cannot be compelled to spend appropriated funds, this Presidential power cannot be turned around to mean that the President, once Congress appropriates funds, can direct that such funds can be spent to carry out any program or to achieve any objective that the President alone determines and do so without further authorization from the Congress.

If the executive branch wishes to pursue the Philadelphia plan in its present form, then the President should request enactment by Congress of the necessary legislative authorization.

In conclusion, section 1004 is a reaffirmation of the authority of Congress as delegated to the Comptroller General by the Budget and Accounting Act of 1921, as amended, to make crystal clear that the Congress and not the executive branch will decide the legality of the obligation and expenditure of appropriated funds.

I hope that the Senate will reject the motion to recede.

Mr. SCOTT. Mr. President, I yield 4 minutes to the Senator from Illinois (Mr. PERCY).

The PRESIDING OFFICER. The Senator from Illinois is recognized for 4 minutes.

Mr. PERCY. Mr. President, I rise in support of the motion to recede and concur in the House provision in the supplemental appropriations bill on the so-called "Philadelphia plan." In effect what I urge my fellow members to do is to strike out the provision in the Senate passed appropriation bill which directs that no Federal funds shall be expended in any Federal aid, grant, contract, or agreement which the Comptroller General holds to be in contravention of any Federal statute.

I hold the Comptroller General and his able assistants in the General Accounting Office in high regard. They are the watchdog of the Congress and they have served the Congress and the taxpayer will by guarding against waste and inefficiency.

In urging deletion of this present authority proposed to be granted to the Comptroller General, I am in no way attempting to limit his power to protect the public purse. There are areas, however, where I believe the Comptroller General should not be granted absolute power or where total reliance should not be placed upon his competence. One in particular now faces us: the legal interpretation of Federal laws.

The General Accounting Office has been created primarily to make economic, fiscal, and accounting determinations as to the expenditure of public moneys. There is a small legal staff attached to the Office, but I believe it would be readily admitted perhaps even by the Comptroller General himself that this legal staff is not generally equipped to render detailed, complicated interpretations on a broad range of Federal statutes, including their constitutional implications. And yet that is exactly what we will be doing if we impose this authority and responsibility upon the Comptroller General.

The functions now extended to the Comptroller General are those that readily belong within the province of the chief law enforcement officer of the country—the Attorney General, and ultimately, of course, with the courts. That brings us to the heart of the issue before us.

The Department of Labor has devised a procedure for encouraging equitable employment practices among the building trades in the construction field. Many construction trades have gone out of their way to assist members of minority groups in being accepted for apprenticeship training and in obtaining construction jobs thereafter. Unfortunately, this practice has not been universal.

A number of building trades have maintained practices which have all but precluded admission of members of minority groups into the trades contrary to law and contrary to the policy of their own national organization. This has had the effect of eliminating such individuals—no matter how competent—from obtaining the more favorable opportunities at the best construction sites. At times, such exclusion goes to such a ludicrous extent that essentially white crews drive each morning to public housing sites in neighborhoods where only black citizens reside to work on housing projects where construction is made possible by Federal funds or guarantees. The irritation, bitterness, and frustration of this goad must be hard to bear.

In years gone by, labor and management confronted each other in a spirit of hostility and malice. The result was long strikes, extreme bitterness, violence, and tremendous economic loss. Then, both sides got smart and demanded to sit down and negotiate out their differences.

Federal laws were enacted to provide necessary rules, of the road. Labor-management relations have been civilized and essentally peaceful. The economy and the country has greatly benefited. In the long run everyone has won.

The same situation faces us today between black men who want, need, and deserve jobs, including jobs in the construction industry, and white men who are concerned about preserving their jobs. There is only one smart way to resolve this and that is by establishing procedures which will stimulate, prod, and encourage both sides to agree together on sound, equitable hiring practices.

This is the Philadelphia plan. This plan is not coercive, as some have sought to make it out. It is merely a device for bringing all sides together to work out geographical areas for training and employment in the construction field.

It has been well said that there is no solution like a hometown solution. Only an arrangement whereby all sides can get together to work out their differences in a reasonable manner—based upon local conditions and factors—will prove workable in the long run. This is what the Philadelphia plan seeks to do.

But in Chicago, it is the "Chicago plan" which needs to be adopted. Based upon the needs, interests, and considerations of the workers and employees in the Chicago area, it is the vehicle for working out arrangements to provide fair opportunities in the construction industry for all who want them. Unfortunately, the plan may well fail because there is no established procedure which permits the various parties to resolve their differences, to develop goals for their mutual benefit.

A stimulus and direction must be established, rules, and regulations must be worked out, and goals must be developed to set a proper course of action. This is the purpose and benefit of the Chicago plan and those like it.

Programs are not forced; they are worked out in the give and take negotiation. Hearings are conducted, procedures are established, and a course of action is laid out accordingly.

This is the only sound way to proceed and, it is legal. The Attorney General has clearly briefed this matter and has found it in conformity with existing law. It is solidly supported by Secretary of Labor Shultz and by President Nixon.

Of equal importance, we in Chicago, as I am sure in other urban areas, need this type of arrangement to encourage an equitable solution to employment practices in the construction industry. With the demand for residential and commercial construction facing our country and with the release boom that will strike the construction industry once the twin burdens of inflation and the Vietnam war are removed, no one need worry about a construction job. What we must worry about and plan for is that everyone shall be fairly entitled to a job if he so seeks one. Just as I suggest trade above labor aid, so I suggest a payroll above a relief roll. The Philadelphia plan will help insure this.

Mr. BYRD of West Virginia. Mr. President, I yield 5 minutes to the Senator from Arkansas (Mr. MCCLELLAN).

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. MCCLELLAN. Mr. President, the action taken by the other body earlier this evening, and the action which the Senate is asked to take on the motion to recede on this issue, warrants headlines in the news tomorrow, "Congress Abdicates—The Senate Surrenders."

Mr. President, I do not want to be a party to the consequence of that result.

I cannot, therefore, support the pending motion.

The President, in his statement this evening stated:

> The first effect of this proposal will be to kill the "Philadelphia plan."

If so, it will be because Congress terms that plan illegal.

The President continues:

> I wish to assure the Congress and the public of this Nation that I consider the independence of the Comptroller General of the United States of the utmost importance in the separation of powers in our Federal system. The amendment now under discussion by the Congress will not and should not be permitted to bring this principle into any doubt.

Mr. President, the action Congress has taken does not bring that principle into doubt.

It is the action and position of the administration which has brought that principle into doubt.

The suggestion is that the way to get at this situation is to go to the courts by some arrangement that permits the executive branch to sue the legislative branch, or vice versa.

That is not the way to settle it. The way to settle it is for Congress to determine whether it will spend money for a given kind of contract.

It has that constitutional power. It has that constitutional duty.

This amendment only puts a limitation on the expenditure for that particular purpose.

Congress has a right to do that, whether the expenditure is legal or whether it is illegal, if it decides to do it. It does not have to appropriate money for a legal contract if it does not want that contract entered into.

Let me point out that Congress will be doing the stopping. Not by this amendment we adopted will the Comptroller General do the stopping of an expenditure. It will be the Congress itself.

Do you want to abdicate that power? I do not believe you do. Congress can stop or limit the financing of any project. We canceled contracts by stopping construction on the procurement of the Navy version of the TFX airplane. The contract was legal, but the Congress had a right to stop it, and it did stop it.

We have a right to stop this if we think it is illegal. In the meantime, while it is being litigated—and the President proposed an amendment to permit that—whose opinion will prevail? The Attorney General's or the Comptroller General's? If the Congress does not act, there will be more contracts. There are already 14. More illegal ones will be entered into if this plan is permitted. Fourteen have already been made. Many more will be made. And the executive branch will, figuratively speaking, thumb its nose at the Congress, and particularly the Comptroller General.

Here is what we are doing tonight if we recede: The efficacy of the office of the Comptroller General will have been dissipated. Its opinions will no longer be controlling if the Attorney General rules otherwise. You are surrendering a duty and a function and a power vested in the Congress by the Constitution.

I urge Senators not to do it.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. I yield 5 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 5 minutes.

Mr. BAYH. Mr. President, I have listened to this debate and discussion with a great deal of interest. I, very frankly, share the concern of my good friend, the distinguished Senator from Arkansas, as to the importance of the role of the Comptroller General. I have the greatest respect for the principal sponsor of the section which is now in question.

I must say that, despite this respect and this deep concern, I cannot, in good conscience, come to the same conclusion. I suppose that is another example of reasonable men in this body, having a chance to examine all the facts, not necessarily agreeing on the interpretation or the impact of those facts on the broad course of history.

I feel that earlier in the discussion of this amendment the Senate erred, and I hope this evening we will follow the leadership of the Senator from Pennsylvania and concur in the judgment which was rendered earlier by the House.

This is a matter of some significance and controversy. There is not a Senator here who does not realize the facts involved. But I wonder if it is not high time for us to face up to this controversy, to realize that the problems that are manifested by it are not going away? Our country is not going to reach the standards which we all aspire for it unless we make opportunity available for all our citizens, which I think this measure is going to impede.

I have reached this conclusion for two basic reasons.

First of all, although, as I have said, I completely concur in the interpretation of the Senator from Arkansas as to the importance of the Comptroller General, I do not see the action we take by removing this section from the bill as destroying the intended power of the Comptroller General.

It seems to me we are giving him additional power by this particular section. We do not really know whether the Philadelphia plan is constitutional or not. We are not going to until it has a chance to go through the courts, and I would like the Supreme Court of the United States, which is the final determinant of the constitutionality of any piece of legislation, to have a chance to speak on this

and for us not to take it away from the Court.

My second reason is a matter of the greatest controversy of all, and that is the goal of the Philadelphia plan itself. It is perhaps the most controversial piece of legislation that has come before this body in the 7 years of my service here, but I think the goal it seeks is very meritorious.

In the short period of time that I have had the good fortune of representing the people of Indiana in this body, we have made a tremendous amount of progress in wiping away the vestiges of second-class citizenship that have existed for 100 years. We have made great headway in opening up, to all citizens, public parks and facilities. We have made it possible for any man to get in his car, drive across the country, be able to stop and rest, buy gasoline, and eat with his family. We have made it possible to remove those vestiges of discrimination. We have dealt with the critical problem of housing, which is another controversial act. In 1965, we enacted a law also in the area of voting and registration. It is up to this body and the other body to act on that matter in this Congress. It will be the pending order of business, as I understand, on March 1, when it will be reported from the Judiciary Committee.

It seems to me if we are going to make a stand on the matter of equal rights and civil rights meaningful, we are going to have to deal with the nitty-gritty of economics. It does not make any difference what the laws are unless we are able to plug the loopholes so that those who are hungry have an opportunity to use the law to provide for themselves gainful employment and adequate compensation for a day's work.

Today, I think the black citizens, the brown citizens, the minority citizens of this land are yearning for one thing, and that is an equal piece of the action in the economy of the country.

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

Mr. BAYH. May I have 2 or 3 additional minutes?

Mr. SCOTT. I yield 2 additional minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Senator is recognized for 2 additional minutes.

Mr. BAYH. They want an equal opportunity for a piece of the action in the economy of this country. They want a chance to go in business for themselves. They want a chance to get equal jobs if they are equally qualified to hold them down, which is what is proposed in the Philadelphia plan, controversial as it is.

To a great degree, we have already gone through this development in the step of opening equal opportunity in the industrial unions insofar as corporations that have Government contracts are concerned. Now we are seeking to reach those places of employment which have not yet been treated in such a way as to guarantee that all employees have an equal opportunity.

I think, first of all, that the Executive has the authority and the duty to require employers who do business with the Government to provide equal employment opportunity.

Second, I think the passage of the Civil Rights Act of 1964 did not deprive the President, pursuant to Executive orders, to require equal employment opportunities by government contractors.

Third, in my judgment, the revised Philadelphia plan is lawful under the Government's Federal procurement statutes, under the Executive order pertaining thereto, and under title VII of the 1964 Civil Rights Act.

I think it is important for the Senate, as the House did earlier, to demonstrate good faith; that we are going to make it possible for the citizens of this country—the minority citizens who have been bypassed in the great economic growth of this country—to get jobs; to earn for themselves, not by special privilege but by equal opportunity, their livelihoods as craftsmen and skilled workers when they are equally qualified with the man who is working next to them.

If a Government contractor does not provide that opportunity for workers of whatever race or creed so they may earn an equal paycheck, then I do not think the taxpayer should pay him for pursuing those contracts. It is as simple as that. That is equity pure and simple.

That is why I feel compelled to support the strong position of equity of the Senator from Pennsylvania.

Mr. GRIFFIN. Mr. President, will the Senator yield to me for a comment?

Mr. BAYH. I am happy to yield.

Mr. GRIFFIN. I wish to commend the Senator.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SCOTT. I yield the Senator 1 additional minute.

Mr. GRIFFIN. I commend the Senator from Indiana for making his very lucid and very courageous statement. It is no secret that the lobbyists of organized labor are very busy in the corridors of the Capitol trying to defeat the Philadelphia plan. Unfortunately, very few of the Senators from Indiana's colleagues on that side of the aisle are speaking out in support of the motion to recede now before the Senate. Accordingly, I wish to emphasize the very courageous statement of the Senator from Indiana and to commend him on it.

Mr. BAYH. I thank my colleague from Michigan. If I might have a minute to respond ——

Mr. SCOTT. Yes.

Mr. BAYH. I hope that when the vote is taken, the results will show there have been a few more converts joining us this time.

Mr. GRIFFIN. Amen.

Mr. SCOTT. I think the Senator is making an excellent statement.

Mr. DOMINICK. Mr. President, will the Senator from West Virginia yield to me?

Mr. BYRD of West Virginia. Mr. President, I yield 1 minute to the Senator from Colorado.

Mr. DOMINICK. I just wish to say, in view of the statement the Senator from Michigan has just made, that I have supported the Senator from West Virginia on all the votes up to this point, and I have not been approached by any labor people since this happened, but I am sure they are around talking to some.

I would love to have some of their support sometime, but to the best of my knowledge they have never seen fit to give it in any election I have been in yet. So, I wanted the Senator from Michigan and the Senator from West Virginia to know that my support is not generated by the position of labor leaders.

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

Mr. BYRD of West Virginia. On the time of the Senator from Pennsylvania.

Mr. SCOTT. I yield the Senator 1 minute.

Mr. GRIFFIN. The Senator from Colorado is absolutely in order in making that statement, and I want to make it clear that I did not intend to suggest that every Senator who took a position opposed to the administration was, by any means, submitting to the pressure of organized labor. I do not mean to leave that impression.

It is a fact, however, that there are lobbyists from organized labor who are working on this issue, and I think the Senator from Colorado will agree with that.

Mr. BAYH. Mr. President, will the Senator yield 1 minute to me?

Mr. BYRD of West Virginia. Mr. President, I yield myself 5 minutes.

Mr. BAYH. Will the Senator from West Virginia permit me to put a 1-minute statement in the RECORD here?

Mr. SCOTT. I yield the Senator from Indiana 1 minute.

Mr. BAYH. Mr. President, I think this just disproves some statements made on the floor earlier this year, when a very controversial nomination was discussed, that certain Senators were bought and sold by certain organizations. I do not think there is any Senator on this floor who can be bought by any pressure group if he thinks what they advocate is wrong. It so happens that I think certain groups are wrong on this issue. The people of this country are crying out for progess on the question of equal economic opportunity, and that is the reason why I support the Senator from Pennsylvania on this amendment.

Mr. SCOTT. I thank the Senator.

Mr. BYRD of West Virginia. I yield 5 minutes to the Senator from Florida.

Mr. HOLLAND. Mr. President, I wish to say, in the first place, that not only has no agent or member of any labor organization approached me, but the only person who has approached me on this issue outside the Senate is the Comptroller General of the United States. He appeared before our committee; he did not come to me individually. It is made his duty under the law by which his office was created for him to report to Congress. He was carrying out his duty when he came to us and reported to us that, in effect, his judgment was being overcalled by the judgment of the Attorney General.

I heard one of my friends on the other side say something about the matter of supporting the President. There are a good many men sitting on the other side of this aisle now who have not supported the President as much this year as has

the Senator from Florida. I make no apologies for that at all. I am looking at some Senators right now who did not follow the President of the United States on some of the most important matters, to him and to the Nation, which have been presented this year. I am not following him on this matter, nor am I following his Attorney General, because I think they are wrong.

There has been so much talk here tonight that is not in accord with the facts that I do not know how to go about hitting it, except one little bit at a time.

One Senator spoke of the fact that the GAO had a very small staff, and could not go into things very fully. That Senator does not know anything about the GAO or he would not have made that statement. It has 4,300 employees. It is one of the largest agencies in our Government. It is equipped as Congress wants it to be equipped, to go into the important matters of deciding whether the accounts are being kept right, and the money spent in accordance with the directions of Congress.

Mr. President, there is no doubt in the world about the fact that Congress alone can appropriate money. There is no doubt of the fact that in 1921 Congress passed the Accounting and Budgeting Act of 1921, which was signed by the President at that time. It was amended in 1950 by Congress, and that amendment was again signed by the President. It was thought to be wholesome legislation, to secure, right down to the time of expenditure, the fact that money should be spent in accordance with the directions given by the Congress, which is the only agency that can appropriate the money.

Mr. President, I cannot go in detail into these matters in this limited time, but I have placed in the RECORD the section of the statute which makes it clear that the Comptroller General is "an agent of the Congress directed at determining the extent to which accounting and related financial reporting fulfill the purposes specified, financial transactions have been consummated in accordance with laws."

And so forth. That is his purpose. It is to protect the Congress. He is defined as an agent of Congress, and he came to us to report that his agency was being violated. We very properly acted, in the only way possible at this late time in the session, to protect our agent, or arm, in carrying out our direction, to see that the law was observed.

Mr. President, it is unfortunate that this matter comes up in connection with a civil rights case, because nearly every Senator has dedicated himself to opposing the principle involved in the amendment which we placed on the bill, even though it was passed by a good vote of the Senate, when we were talking about civil rights.

This might just as well be an expenditure for the construction of roads, or for the construction of public buildings in the Capital, or for the construction of ships or airplanes—for any item as to which money that Congress appropriates can be expended. It might just as well have arisen in such an instance.

The question is whether a law means anything when it says—and I quote it as briefly as I can in this limited time—as against the executive department only, that the amounts determined by the General Accounting Office "shall be final and conclusive upon the executive branch."

The PRESIDING OFFICER. The time yielded to the Senator from Florida has expired.

Mr. BYRD of West Virginia. Mr. President, I yield 2 additional minutes to the Senator from Florida.

Mr. HOLLAND. Likewise, the act gives the right of appeal. When an appeal is taken by the General Accounting Office, the law provides, again, that his ruling shall be final and conclusive upon the executive branch. That is the purpose of the legislation.

The Attorney General is a member of the executive branch. There is no doubt of it. He is attempting here to take over and manage the General Accounting Office, which is an arm of Congress.

People are talking foolishly about having lawsuits between the executive department and the legislative department. What are we thinking about? All these questions can be decided, and they are decided in hundreds of cases in the courts by people who are interested, people who have contracts, people who are working.

Mr. BYRD of West Virginia. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. EAGLETON in the chair). There will be order in the Senate. The attachés will take seats. Persons who are not permitted to be in the Chamber will leave.

Mr. BYRD of West Virginia. Mr. President, the Senator from Florida is entitled to be heard. This is an important subject. If only one Senator wants to listen, that one Senator is entitled to listen and to be able to hear what the Senator from Florida is saying.

The PRESIDING OFFICER. The point of the Senator from West Virginia is well taken.

Mr. HOLLAND. Mr. President, this question is not going to be dead tonight, because Congress is not going to stand idly by and see its authority taken away and its agent destroyed by anyone in the executive department, whether it is an ambitious Attorney General or whoever else it may be.

The Senator from Florida is just as sure that with a little time to look at this matter, the Senate will realize that it is our independence, the independence of Congress, that is being assailed, and will be assailed, if this program goes through, because while the civil rights program is a very appealing one, the next time it may be something which more concerns bread and butter than civil rights, something more affecting the security of the Nation than civil rights.

The question is whether we will stand up for constitutional rights and for an act approved by two fine Presidents, which has not been questioned since 1921, and has always been obeyed by the executive department until this particular instance.

I hope that the Senate will hold up the hands of its agent, the Comptroller General, and of the law as it now stands. That is the challenge that is being made to us. The question is whether we want to be parties to tearing down the pillars of the temple in which we serve. That is just what the question is. So far as I am concerned, I will not be a party to tearing down those pillars.

Mr. SCOTT. Mr. President, I yield 5 minutes to the senior Senator from New York.

Mr. JAVITS. Mr. President, there is one basic point, it seems to me, that we have to decide. That is why we have this provision now after 50 years, if the Comptroller General has all the power which the opponents of this motion say he has. And he has not.

He has been asserting this power for half a century, apparently with enough success to warrant the continuance of the power and with enough success so that we do not have to legislate about it specially until we get into a situation in which all of a sudden everyone decides he has to have this power buttressed.

It cannot be so big and it cannot be so absolute if Congress decides the minute he gets in a contest with the Attorney General that it has to rally to his side. He does not have all of this power.

However, that is the way it has worked for the past 50 years. It is a good thing that he is not absolutely sure of his ground any more than is the Attorney General.

As so often happens in our free society, it works out better.

Now, we want to nail it into law. If we sustain the claim which is sought in this particular appropriations bill, the result will be to settle a constitutional issue by giving absolute power to this congressional officer because in this particular case he happens to decide with a lot of the Members of Congress, who, in the other body, have already been demonstrated not to be in the majority, who want to certify in him this absolute power.

The Attorney General claims not to have such absolute power. As the Attorney General, he is amenable and susceptible to the courts at all times. He does not claim this absolute power, that whatever he holds about Federal law or the Constitution is controlling on the part of the people of the United States and the Congress and the Executive.

Yet, that is what is in a supplemental appropriation bill at the tail end of the session in an attempt to endeavor to latch it into our constitutional system.

The debate is infinitely greater than the cause which has brought this provision about.

What are the proponents of the provision trying to do in connection with this very practical Philadelphia plan? The contractors are running into a situation in which they might have to sue for their money. A Government department is in doubt and may be unable to certify their vouchers.

However, they are not satisfied with that. They want them to buy a law suit. Who wants to buy a law suit?

Yet this is exactly what this provision says.

He has already held that any contract made under this plan is unconstitutional.

So if we ram it down their throats and say that anything he holds to be in contravention of that Federal statute is absolute and vital, they are just buying a lawsuit, if that little area of doubt is eliminated, and the plan is finished.

We have been trying to find lots of ways to do a lot of things to remedy conditions in the building construction industry, not only with respect to this question of discrimination in employment, for years and years, and indeed for decades, which have plagued the construction industry, but also in respect of more modern methods and different ideas and a breath of fresh air in respect to this industry.

And that is what many Senators have always tried to contend for in regard to the trade associations until this issue comes up. And then it becomes an issue between the power of the Comptroller General of the United States and the Attorney General of the United States.

And the fundamental point with respect to what is being attempted here will be aborted or killed and overlooked.

That happens to be what many of the same Senators have been after for years. But they do not want it under this guise.

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

Mr. SCOTT. Mr. President, I yield the Senator an additional 3 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for an additional 3 minutes.

Mr. JAVITS. Mr. President, the strongest case for this particular provision before us is that we have to find in our society ways in which grave social and economic pressures can be alleviated. And we cannot abort these processes. The courts and Congress and the executive all have their part to play.

And here one party gets inflexible, which is what this amounts to, because we must remember that the Comptroller General has already ruled that the plan is illegal. So we would not be conferring on him the power to make the decision. He has already made it. And it has been properly held that this removes the whole idea.

That is very much, in my judgment, against the social order of our country and the effort to give relief to the pressures and have them build up instead in terms of national order and national tranquility, and have absolute power in the hands of a public official. We, who believe so much in sharing power, should be the last body of the Government—that is, the whole Congress—to give anyone this absolute power.

Yet, faced with something that they do not like, they are ready to give absolute power to the Comptroller General of the United States.

We regard it as unwise to let anyone have this absolute power. It would be a good thing for Congress to debate the matter and decide the whole legal question. However, certainly not under these auspices and under this kind of frame of reference in a supplemental appropriation bill at the very tail end of the session, to decide a question of the constitutional magnitude that faces us here.

The Senate has been given a proper way in which to deal with this matter in accordance with the action of the other body.

I hope very much that we sustain the motion to recede.

Mr. BYRD of West Virginia. Mr. President, I yield 3 minutes to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 3 minutes.

Mr. BAKER. Mr. President, I thank the Senator from West Virginia.

It occurs to me that at this moment we are debating something that we really cannot determine under the doctrine of separate powers. In effect, we are trying to decide by legislation in the way of an amendment to the supplemental appropriations bill whether there is a great deal of merit to the legal opinion by the Comptroller General or by the Attorney General.

And in my humble opinion, neither of these fine public officials who are servants of the Government have any authority to do anything more than to give their opinion. In the final analysis the judiciary in the United States is to decide the question involved in the dilemma we are confronted with, and that question is whether the so-called Philadelphia plan is or is not prohibited by the Civil Rights Act of 1964.

Under the form of the Constitution and the doctrine of separation of powers, we cannot decide that affirmatively. Nor can the executive department or any of its agencies, including the Attorney General of the United States, except in terms of an advisory opinion. Only the judiciary can decide that point.

The judiciary has not decided the point of whether the Philadelphia plan does or does not violate the provisions of the Civil Rights Act of 1964.

Unfortunately, after many days of concern and debate in this Chamber, and efforts to compromise which have not succeeded, I have reached the reluctant conclusion that we are engaging in something that really is not determinative; because no matter whether we pass the bill in this form or some other form, whether we recede and concur or stand on our amendment as adopted by the Senate, the Supreme Court of the United States and the judiciary of the United States finally will decide: Does the Philadelphia plan violate the provisions of the Civil Rights Act of 1964?

What they say, under the constitutional prerogative, will be determinative. What we say will not. So it does not make much difference which way we vote on this matter. It does not make much difference except in terms of symbolism and except in terms of psychological and social impact that it may or may not have. Unfortunately, I am forced to conclude that the psychological or symbolic impact of the situation can be and often is greatly overrated.

I do not see this as a great civil rights issue of 1969, and I say that with all deference to those who espouse the cause of the movement to recede and to concur. I say it also against the background of one who has voted, I believe, for every civil rights issue of any consequence that has been presented to this body since I have had the privilege of serving in it.

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

Mr. BAKER. I ask for 1 additional minute.

Mr. BYRD of West Virginia. I yield 1 additional minute to the Senator.

Mr. BAKER. So I reluctantly come to the conclusion that what we are trying to do now is to legislate a judgment on the effect of the Philadelphia plan in relation to the Civil Rights Act of 1964, which it is not our constitutional prerogative to legislate. We can express our opinion. But, regardless of what position we take or do not take, nothing we do or fail to do can detract from the inherent constitutional authority of the Supreme Court of the United States finally to say whether or not it does or does not violate the provisions of the Civil Rights Act of 1964.

Mr. SCOTT. I yield myself 2 minutes.

Mr. President, on the authority of the President of the United States this morning I am in a position to say that he has said this day that this Philadelphia plan offers a great opportunity to advance the equal employment of all Americans and that this opportunity is one which he sincerely hopes will be given to the nonwhite people of America.

I have heard that statement made this day by the Secretary of Labor, who is in my office at this time, and by the Attorney General, and, therefore, I must respectfully disagree with anyone who says that this is not a civil rights issue.

This is an issue of justice, of equal employment, of equal opportunity; and when we are all through, the Comptroller General will have whatever powers he legally has and the Attorney General will have whatever powers he legally has. But this action will avoid the cancellation of 14 contracts already entered into in good faith, in which the U.S. Government has a strong interest, and will preserve the legal situation pending any further testing of the matter in the courts.

I ask all Senators if they do not vote to recede in this matter, what will they do tomorrow? The House has adjourned until 11 a.m. tomorrow. A quorum may not be in town. Ask yourselves very seriously what you will do tomorrow if there is no quorum. Will you go home? Or will the House come back? And when will the next session of this Congress be held? The continuation of this Congress now depends, in my opinion—I do not assert it as more than a single person's opinion—on whether we vote to recede or not to recede. Each Senator must accept that responsibility for himself, and others will disagree, and I respect that. But I say, with all due respect, if you do not vote to recede, ask yourselves where you will be tomorrow.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote! Vote!

Mr. BYRD of West Virginia. Mr. President, I yield 5 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I rise, first of all, to take respectful exception

to the question that has been posed by my good friend and leader, the distinguished senior Senator from Pennsylvania.

I would not feel very good, deciding an issue that I felt was of great importance to this country on the basis of whether it suited my own pleasure tomorrow or the next day. I hope, along with a good many other Senators, that I might be home at Christmas. It takes me about a full day to get there, and I would be pleased to be there. But I am not going to compromise my basic convictions in order to satisfy the pleasure I would derive from being at home with my family.

I am disturbed about this issue, and I have thought long and hard on it. I hate very much to disagree with my President, with our President, but it seems to me that some very basic issues are involved here. I certainly do not presume to predict what the Supreme Court of the United States might do if and when it has before it the issue of whether or not the Philadelphia plan is in contravention to the 1964 Civil Rights Act. It does seem to me, however, that there would be a conflict.

I would also point out that there seems to be some absurdity in the Philadelphia plan if we try to carry its provisions to their logical conclusions. How are we to determine what the minority groups are in this country that should be considered? In Wyoming, and in other Western States, Indians, according to some definitions, may be persons of one-half Indian blood or one-quarter Indian blood. When we recall that the Civil Rights Act of 1964 says that no quotas can be kept, I would think it would be extremely difficult for an employer to keep the kind of records necessary in order to carry out the mandate of the Philadelphia plan.

A former Wyomingite, now dead, the late Thurman Arnold became the major trustbuster of the Federal Government and sought to enforce the Sherman and Clayton Antitrust Acts.

This respected member of the Roosevelt administration was successful in establishing himself as the trustbuster, but he never forgave the Supreme Court of the United States for its failure to include labor unions under the provisions of the antitrust acts. He warned over 30 years ago that concentrated power in the labor unions, especially when used for other than direct collective bargaining purposes, was just as dangerous as concentrated power in the hands of business. Yet the Philadelphia plan provisions are aimed at the actions of the employer. When are we going to require actions by the labor unions with which the employer must deal?

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

Mr. BYRD of West Virginia. I yield 2 additional minutes to the Senator.

Mr. HANSEN. When Congress determined that the South was not moving fast enough to register and vote citizens belonging to minority groups, the Voting Rights Act was passed which applied only to States in which 50 percent of the eligible citizens were not registered or did not vote. I suspect, and it seems to me not unreasonable, that the same attitude now might be displayed by this Congress with respect to the labor unions of this country. That is where the basic trouble resides.

Because of their discriminatory practices labor unions have denied blacks the opportunity to qualify for the type of job the Philadelphia plan seeks to secure for them. I hope Congress will have the courage to face up to the issue. I can be counted on to support those who want to see that the civil rights laws apply to all the institutions of this country. When that is done we will not have to worry about using a subterfuge to achieve a very laudable objective—equal job opportunity.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. Mr. President, I have no requests.

Mr. BYRD of West Virginia. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 6 minutes remaining; the Senator from Pennsylvania has 8 minutes remaining.

Mr. BYRD of West Virginia. Mr. President, I regret that the issue in the Senate and in the House of Representatives has been fought on the civil rights battleground. The basic issue involved here is not a civil rights issue.

Of course, the factual situation which brought this issue to a head involved the so-called Philadelphia plan. Under that plan, the Department of Labor is proceeding to require contractors and subcontractors in the Philadelphia area who bid on federally assisted and Federal construction projects amounting to $500,000 or more to commit themselves in their contracts to employ a certain percentage of minority workers.

The Comptroller General of the United States maintains that this is in violation of the 1964 Civil Rights Act, which all parties—the Department of Justice, the Labor Department, and leaders of minority groups themselves—agree prohibits setting up of racial quotas in the employment of individuals. Whether these quotas are called quotas, goals, or whatever, they remain the same; they remain quotas and are violative of the 1964 Civil Rights Act.

Under the so-called Philadelphia plan the contractors are required to submit promises in writing that they will attempt to make a good-faith effort to meet the requirements of certain goals and those goals are with respect to, I believe, six specified trades.

For example, a contractor for ironworkers would be required in the first year to increase the number of employees in the ironworkers' trade from 5 percent to 9 percent, in the second year from 11 percent to 15 percent, in the third year from 16 percent to 20 percent, and in the fourth year from 22 percent to 26 percent. This is a quota, pure and simple. Ranges are established, and the contractor or subcontractor is required to meet or to make a good-faith effort to meet at last the minimum percentage figure in the range. If the contractor fails to do this the contract can be canceled and the contractor may be debarred from bidding on future Federal contracts.

The Comptroller General is saying this violates the 1964 Civil Rights Act and constitutes discrimination in reverse. Under the 1921 Budgeting and Accounting Act, Congress has given to the Comptroller General of the United States the authority to make determinations and to certify balances, and his determination is "final and conclusive" upon the executive departments. So, what we are trying to do here tonight is to uphold the Comptroller General of the United States, who is the agent of Congress.

I have no doubt that if this matter did not involve a factual situation which does get into the civil rights area, both Houses would have strongly upheld the action of the Comptroller General. I am sorry that it was a civil rights matter which got caught in the trap, but that is the case. We are not voting here on the issue of whether or not the Philadelphia plan is legal or illegal under the 1964 act. We are voting on a far more basic issue.

The Comptroller General maintains that the expenditure of Federal funds on Philadelphia plan type contracts would be violative of the 1964 Civil Rights Act, and his is the final and conclusive word under the law of 1921. Yet, the Labor Department is going ahead, on the instructions of the Attorney General, to extend such contracts to other major metropolitan areas.

So I think it is our duty to uphold the arm of Congress, the Comptroller General of the United States. In the view of those who have supported this legislation which we now identify as amendment 33, we are voting not on a civil rights issue but on an issue that goes to the fundamental bedrock of our republican form of government. It goes to the principle of the separation and balance of powers. I am sorry that the other body took the position it did today, but I hope there will be another day and time when we can resolve this issue and resolve it in favor of that fundamental principal of equal powers which was written into the Constitution, and which upholds the concept of three equal, and coordinate branches of Government. That is basic to our republican form of government. The issue of civil rights should not be controlling here. The issue is whether or not we are going to uphold our own agent of the Congress and, therefore, insist on the equality of the legislative branch as one of the three branches of Government.

Mr. SCOTT. Mr. President, a contractor who does not receive payment because of a disallowance by the Comptroller General may sue the Federal Government in the Court of Claims for that payment. Why can he do that? He can do that because under the Civil Rights Act he is entitled to be paid; and yet the Comptroller General might rule he could not. So this measure does not quite suit, but fosters necessary litigation.

Mr. President, I ask unanimous consent to have printed at the end of my remarks a statement on the revised Philadelphia plan.

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

(See exhibit 1.)

Mr. SCOTT. Mr. President, much has been said about what this bill is all about. Well, it is about civil rights. It is about black people and white people. It is about equal opportunity. It is about the opportunity to find jobs. It is about whether the Comptroller General should exceed his powers, and, exceeding his powers have the right to pass on the Civil Rights Act of this country in addition to the functions given him under the act of 1921.

There is something else in this bill, and that is whether we pass the continuing resolution under which a lot of Government employees are either going to be paid or not going to be paid, and it is in this bill. If we knock out this bill tonight, no way exists, short of a new continuing resolution. I do not know how we will get the House back to pass upon it. No way exists that I know of by which we could continue to make payments under the foreign aid authorization or the Labor-HEW authorization. None of these payments can be made unless this continuing resolution goes through, as it is part of this bill.

I agree this is no way to legislate. I do not think this rider has a place in this bill. I think a continuing resolution would be better off if we had done it separately. As Grover Cleveland once said, "It is a condition, not a theory that confronts us."

If we want Government employees to be paid, I do not know of any other way. If we want funds under foreign aid and HEW, there would be no other way except to pass a brandnew continuing resolution, if we can find the other body, wherever they are.

EXHIBIT 1

THE REVISED PHILADELPHIA PLAN

The revised Philadelphia Plan established by the Department of Labor has provided a significant motivation to employer, union and minority groups within a number of cities for the voluntary negotiation of an agreement by which minority individuals may be granted significant opportunity for employment within the construction industry. The discussions surrounding the negotiation of such voluntary plans as well as the implementation of those plans have provided a significant channel for civil rights tensions. It is believed that the elimination of the Philadelphia Plan would reduce the incentives for such negotiations to the detriment of minority employment opportunity.

The experience in Philadelphia with the Revised Philadelphia Plan has been excellent. The Department of Health, Education and Welfare has approved the award of 14 contracts pursuant to the Philadelphia Plan and has held a significant number of pre-bid conferences. No significant contractor or union objection to the Philadelphia Plan has been heard at such conferences or in regard to the award of any of the 14 contracts.

The present controversy between the Department of Labor (supported by the Attorney General) and the Comptroller General does not involve a dispute between Congress and the Executive Branch. Instead, the apparent controversy revolves around the interpretation of the intent of Congress in its enactment of the Civil Rights Act of 1964. The Comptroller General has interpreted that legislation in one way and the Attorney General in another manner. Thus, the matter involves only an interpretation of the intent of Congress and in no way can be interpreted as a conflict between the Executive and Congressional Branches. Indeed, the Attorney General's opinion follows the wishes of Congress as expressed in the Civil Rights Act of 1964 as he interprets those wishes.

The conflicting interpretations of the Attorney General and the Comptroller General are most properly resolvable in the courts rather than before Congress. There exists a number of avenues for court review, for instance, a grantee of Federal funds may seek a declaratory judgment to determine whether the Revised Philadelphia Plan is legal. A contractor who does not receive payment because of a disallowance by the Comptroller General may sue the Federal Government in the Court of Claims for payment.

Mr. DODD. Mr. President, I was dismayed to learn that the Senate was forced to recede in the conference committee on my amendment to H.R. 15209, the supplemental appropriation bill, which would have given the Passport Office an additional $310,000.

I take absolutely no issue with my colleagues in the Senate, because I know that they fought the good fight to keep the amendment in the bill. This battle was lost in the House of Representatives.

But I am grateful, in particular, for the efforts of the distinguished senior Senator from Arkansas and the distinguished senior Senator from Colorado, who I know feel strongly about this matter, as I do.

Nonetheless I am distressed, for most of us know that the primary reason for the defeat of the amendment was the fact that there are some Members of the other body who are unhappy with the Director of the Passport Office.

They have been successful to date in preventing the Passport Office from performing its duty to the American taxpayer.

I suspect they will not be satisfied until the able and efficient Director of the Passport Office has been forced to resign.

I am not telling stories out of school, for this is common knowledge. But this business must stop, because it is the American taxpayers who are suffering.

May I remind the Senate, as I did on Thursday night when I introduced my amendment, that the Passport Office brought in a profit to the Treasury of $10.9 million in fiscal 1969.

I suspect that the Passport Office is the only agency which is operating totally in the black, and they are on the good side of the ledger to the tune of $10.9 million.

It is shocking to me that we cannot give the Passport Office an additional $310,000 for public service, when it is giving us $10.9 million.

It is even more disturbing to think that while we are appropriating billions of dollars for many new programs, some of which may prove to be of questionable value, we cannot give $310,000 to provide this service which is owed to and badly needed by the American taxpayer.

Mr. President, American citizens are forced to wait in long lines, suffer interminable delays and travel long distances in trying to obtain passports.

It is true in the States of Connecticut and Alaska.

It is true in many parts of New York and California.

It is true in Detroit.

It is true in Dallas.

It is true in Houston.

It is true in Fort Worth.

And it is going to be true in just about every part of the country once the jumbo jets and the SST provide less expensive travel possibilities for large numbers of Americans.

I shall not take any more of the Senate's time at this hour. However, Mr. President, I want to serve notice that Members of the other body will no longer be able to prevent the Passport Office from maintaining its excellent record of efficiency and service because of a personal pique.

As soon as Congress reconvenes, I intend to submit legislation which will, in effect, allow the Passport Office some fiscal autonomy. If the Passport Office is bringing in $10.9 million worth of profit, then I shall endeavor to insure that the Passport Office will be able to use some of this profit to serve the American taxpayer.

I am informed that the Senate Appropriations Committee intends to hold hearings on this matter soon after Congress reconvenes in January.

Again, I am grateful to my colleagues in the Senate who fought so valiantly on the conference committee to sustain my amendment. I know that they will join me next year in trying to provide a permanent solution for the present passport dilemma. I look forward to their counsel and their help on this matter of concern to all Americans.

Mr. BYRD of West Virginia. Mr. President, I yield back any time I have remaining.

Mr. SCOTT. Mr. President, I yield back my remaining time.

SEVERAL SENATORS. Vote! Vote! Vote!

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Mr. President, a vote "yea" is to recede?

The PRESIDING OFFICER. The Senator is correct.

Mr. SCOTT. Mr. President, a parliamentary inquiry, since I did not fully understand the Senator. A vote "yea" is to recede from the Senate wording and a vote "nay" is to continue with the Senate wording. In other words, to vote "yea" is to accept the wording of the House under amendment No. 33. Is that correct?

The PRESIDING OFFICER. A vote "yea" to recede would take the Senate language out of the bill.

All time having been yielded back, the question is on agreeing to the motion that the Senate recede from its insistence on its amendment No. 33. 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. YARBOROUGH (when his name was called). On this vote I have a pair with the Senator from Connecticut (Mr.

RIBICOFF). 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. LONG (when his name was called). On this vote I have a pair with the Senator from Wisconsin(Mr. NELSON). 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. MANSFIELD (after having voted in the negative). On this vote I have a pair with the distinguished Senator from Louisiana (Mr. ELLENDER). 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. METCALF (after having voted in the affirmative). On this vote I have a pair with the Senator from South Carolina (Mr. HOLLINGS). 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. GRAVEL (after having voted in the affirmative). On this vote I have a pair with the Senator from North Carolina (Mr. ERVIN). 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 Mississippi (Mr. EASTLAND), the Senator from Louisiana (Mr. ELLENDER), the Senator from North Carolina (Mr. ERVIN), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from Wisconsin (Mr. NELSON), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Georgia (Mr. TALMADGE), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from Colorado (Mr. ALLOTT), the Senator from New Jersey (Mr. CASE), the Senator from Kentucky (Mr. COOK), the Senator from New Hampshire (Mr. COTTON), the Senator from Hawaii (Mr. FONG), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon Mr. HATFIELD), the Senator from California (Mr. MURPHY), the Senator from Alaska (Mr. STEVENS), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from Kentucky (Mr. COOPER) is absent because of illness in his family.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kansas (Mr. PEARSON), and the Senator from Ohio (Mr. SAXBE) are detained on official business.

If present and voting, the Senator from New Jersey (Mr. CASE) would vote "yea."

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Colorado (Mr. ALLOTT). If present and voting, the Senator from Oregon would vote "yea," and the Senator from Colorado would vote "nay."

The result was announced—yeas 39, nays 29, as follows:

[No. 274 Leg.]

YEAS—39

Aiken	Hart	Montoya
Bayh	Hartke	Moss
Bellmon	Hughes	Muskie
Bennett	Inouye	Packwood
Boggs	Jackson	Pastore
Brooke	Javits	Pell
Church	Kennedy	Percy
Cranston	Magnuson	Prouty
Dodd	Mathias	Schweiker
Eagleton	McGovern	Scott
Goodell	McIntyre	Smith, Ill.
Griffin	Miller	Tydings
Harris	Mondale	Williams, N.J.

NAYS—29

Allen	Fannin	Proxmire
Baker	Fulbright	Randolph
Bible	Gore	Smith, Maine
Burdick	Gurney	Sparkman
Byrd, Va.	Hansen	Spong
Byrd, W. Va.	Holland	Stennis
Cannon	Hruska	Thurmond
Curtis	Jordan, N.C.	Williams, Del.
Dole	Jordan, Idaho	Young, N. Dak.
Dominick	McClellan	

PRESENT AND GIVING LIVE PAIRS, AS PREVIOUSLY RECORDED—5

Yarborough, against.
Long, against.
Mansfield, for.
Metcalf, for.
Gravel, for.

NOT VOTING—27

Allott	Fong	Pearson
Anderson	Goldwater	Ribicoff
Case	Hatfield	Russell
Cook	Hollings	Saxbe
Cooper	McCarthy	Stevens
Cotton	McGee	Symington
Eastland	Mundt	Talmadge
Ellender	Murphy	Tower
Ervin	Nelson	Young, Ohio

So the motion that the Senate recede from its insistence on its amendment No. 33 was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote just taken.

Mr. GRIFFIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MANSFIELD. Mr. President, have we disposed of the conference report?

The VICE PRESIDENT. That completes action on the conference report.

S. 3298—INTRODUCTION OF A BILL TO BE CITED AS THE "FISHERY PRODUCTS PROTECTION ACT OF 1969"

Mr. KENNEDY. Mr. President, I introduce for appropriate reference, a bill to protect consumers and to assist the commercial fishing industry by providing for the inspection of establishments processing fish and fishery products in commerce, and to amend the Fish and Wildlife Act of 1956 to provide technical and financial assistance to the commercial fishing industry in meeting such requirements.

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. 3298) to protect consumers and to assist the commercial fishing industry by providing for the inspection of establishments processing fish and fishery products in commerce, and to amend the Fish and Wildlife Act of 1956 to provide technical and financial assistance to the commercial fishing industry in meeting such requirements introduced by Mr. KENNEDY, was received, read twice by its title, referred to the Committee on Commerce, and ordered to be printed in the RECORD, as follows:

S. 3298

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 "Fishery Products Protection Act of 1969".

SEC. 2. For the purpose of this Act—

(1) The term "commerce" means travel, trade, traffic, transportation, or communication in any State and a point outside thereof, or between points in the same State but through a point outside thereof;

(2) The term "State" includes the States of the United States, its territories and possessions, the District of Columbia, and the Commonwealth of Puerto Rico;

(3) The term "Secretary" means the Secretary of the Interior acting through the Bureau of Commercial Fisheries;

(4) The term "person" means any individual, partnership, corporation, or association;

(5) The term "fish" means any aquatic animal or part thereof intended for human food;

(6) The term "fishery products" means any edible part of fish that is processed separately or in combination with other ingredients for human food;

(7) The terms "process" or "processed" or "processing" means the handling, storing, preparation, production, manufacture, preserving, packing, transporting or holding of any fish or fishery products;

(8) The term "wholesome" means sound, healthful, clean, and otherwise suitable for use as human food;

(9) The term "unwholesome" means—

(A) unsound, injurious to health, or otherwise rendered unsuitable for use as human food; or

(B) consisting in whole or in part of any filthy, putrid, or decomposed substance; or

(C) presence of bacteria of public significance; or

(D) processed under unsanitary conditions whereby fish or any fishery products may have become contaminated with filth, or whereby any fishery products may have been rendered injurious to health; or

(E) packaged in a container composed of any poisonous or deleterious substance which may render the contents injurious to health;

(10) The term "inspection service" means the agency or agencies designated by the Secretary as having the responsibility to carry out the provisions of this Act;

(11) The term "inspector" means any person authorized by the Secretary to inspect fish and fishery products;

(12) The term "official inspection mark" means any symbol prescribed by the Secretary;

(13) The term "official establishment" means any establishment that has been issued a certificate of registration by the Secretary;

(14) The term "establishment" means the premises, buildings, structures, facilities, and equipment used in the processing of fish and fishery products;

(15) The term "vessel of the United States" means any vessel of five net tons and upward that is enrolled, licensed, or documented under the laws of the United States and entitled to the privileges of vessels employed in the fisheries;

(16) The terms "container" or "package"

include, but are not limited to, any box, can, tin, cloth, plastic, or any other receptacle, wrapper, or cover;

(17) The term "label" means any written, printed, or graphic material upon the shipping container, if any, or upon the immediate container of the fishery product or accompanying such product, including, but not limited, to the individual consumer package;

(18) The term "shipping container" means any container used or intended for use in packaging the product packed in an immediate container;

(19) The term "immediate container" includes any consumer package, or any other container in which fish or fishery products, not consumer packaged, are packed.

SEC. 3. Congress declares that wholesome fish and fishery products are an important source of the Nation's food supply; and that unwholesome and adulterated fish or fishery products moving in the channels of commerce or directly affecting commerce are injurious to the consumers, adversely affect the marketing of wholesome fish and fishery products, result in losses to producers and fishermen, and limit markets for such products. It is the purpose of this Act to prevent such adverse effects.

SEC. 4. (a) In furtherance of the purpose of this Act, the Secretary shall conduct, directly or by contract, a survey of the methods, practices, and sanitary conditions of the establisments in the United States and vessels of the United States processing fish or fishery products. The Secretary shall then develop and promulgate, by regulation, adequate sanitary standards and practices for establishments processing fish or fishery products in any State for movement in commerce and for establishments the operations of which directly affect the movement of fish and fishery products in commerce and for vessels of the United States.

(b) The Secretary shall, based on studies, surveys, and other information, also issue adequate and effective regulations to assure (1) that imported fish or fishery products are safe, healthful, wholesome, unadulterated, and suitable for human food, and (2) that the containers of such products are safe and comply with such sanitary standards as he may prescribe.

(c) Such regulations shall be promulgated within one year after the effective date of this Act.

SEC. 5. Effective two years after the effective date of the regulations promulgated under section 4 of this Act:

(1) No person shall process any fish or fishery products in any establishment for movement in commerce or in any establishment the operations of which directly affect the movement of fish and fishery products in commerce unless such establishment has been issued a certificate of registration by the Secretary, or unless the Secretary determines, in accordance with the provisions of section 8 of this Act, that the State wherein such establishment is located provides an adequate and enforcible system of regulation, certification, and inspection of such establishment and the fish and fishery products processed therein.

(2) No fish or fishery products shall be imported into the United States unless they comply, as determined by the Secretary, with the regulations issued under section 4 of this Act for imported fish and fishery products. All imported fish and fishery products, after entry into any State in compliance with such regulations, shall be treated as domestic fish and fishery products within the meaning of, and subject to, the provisions of this Act.

(3) The Secretary of State, in consultation with the Secretary, shall encourage foreign countries importing fish and fishery products into any State to establish enforcible sanitary standards and practices for establishments and vessels of those countries processing fish and fishery products for such importation and a system of certification and inspection of such establishments and vessels. Such standards and practices must be consistent with those promulgated by the Secretary under this Act. The Secretary may authorize such countries to use an official inspection mark on each immediate container and shipping container of imported wholesome and unadulterated fishery products. No country shall use such a mark on containers of imported fishery products unless authorized by the Secretary. Containers with unauthorized marks shall not be allowed to enter into any State.

SEC. 6. (a) Any person who is required by section 5 of this Act to have a certificate of registration, and who is denied a certificate of registration shall upon request be given a hearing by the Secretary whose determination shall be final.

(b) The certificate of registration of any official establishment that fails to comply with the provisions of this Act and the regulations issued thereunder may be suspended upon notice by the Secretary. The holder of the suspended certificate may at any time apply for reinstatement of the certificate, and the Secretary shall immediately reinstate it if, after an opportunity for a hearing, he finds that adequate measures have been taken to comply with the requirements of the Act and regulations.

(c) Any inspector shall have access to any official establishment for the purpose of ascertaining whether the conditions of the certificate are being complied with. Denial of access for such inspection shall be ground for suspension of the certificate.

SEC. 7. (a) In order to provide technical assistance to the commercial fishing industry in meeting the requirements of this Act and the regulations issued thereunder, the Secretary shall utilize to the greatest extent feasible the provisions of the Fish and Wildlife Act of 1956, as amended.

(b) Section 4 of the Fish and Wildlife Act of 1956 (70 Stat. 1121; 16 U.S.C. 742c) is amended—

(1) by inserting before the period at the end of subsection (a) the following: "or new or operating establishments processing fish and fishery products subject to regulations issued under the Fishery Products Protection Act of 1969";

(2) by inserting immediately after the word "gear" in the first sentence of subsection (b)(4) the words "and establishments processing fish and fishery products", and by inserting before the period at the end of such sentence the phrase "and commercial fish processors";

(3) by inserting immediately after the word "applicant" in subsection (b)(5) the words "for a loan relating to vessels or gear", and by adding at the end thereof the following new sentence: "The applicant for a loan relating to an establishment processing fish and fishery products shall have the ability, experience, resources, and other qualifications necessary to operate and maintain the establishment in a sound, businesslike manner."; and

(4) by amending the last sentence of subsection (c) of such section to read as follows: "There is authorized to be appropriated to the fisheries loan fund the sum of $35,000,000 to provide initial capital.".

(c) Section 7(a) of the Fish and Wildlife Act of 1956 (70 Stat. 1122; 16 U.S.C. 742f(a)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

(2) by inserting after paragraph (3) a new paragraph to read as follows:

"(4) provide technical assistance to the commercial fishing industry in developing economically feasible technical improvements to meet any standards of sanitation and quality control for the processing of fish and fishery products promulgated under the Fishery Products Protection Act of 1969 and any other provisions of such Act, and to assure that the processing of all fish and fishery products fully complies with such standards;".

SEC. 8. The Secretary shall encourage each State to provide an adequate system of regulation, certification, and inspection of establishments located in the State that process fish and fishery products for movement in commerce and establishments the operations of which directly affect the movement of fish and fishery products in commerce, and the fish and fishery products processed therein, including, but not limited to, the promulgation and enforcement of sanitary standards and practices that are consistent with those promulgated by the Secretary. Whenever the Secretary determines that State has provided such system, he shall publish in the Federal Register a notice to that effect and thereafter establishments and persons in that State shall be subject to the requirements of said system in lieu of the requirements of this Act, except that nothing in this section shall preclude the Secretary from rescinding such notice and reasserting Federal jurisdiction over such establishments and persons under this Act if he determines that such action is in the public interest.

SEC. 9. For the purpose of this Act, fish and fishery products shall be deemed to be adulterated—

(1) If they bear or contain any poisonous or deleterious substance which may render them injurious to health, but, if the substance is not an added substance such fish and fishery products shall not be considered adulterated under this paragraph if the quantity of such substance in such fish and fishery products does not ordinarily render them injurious to health; or

(2) If they bear or contain any added poisonous or added deleterious substance, unless such substance is permitted in their production or is unavoidable under good manufacturing practices, as may be determined by the Secretary or under other provisions of Federal law limiting or tolerating the quantity of such added substance, except that any quantity of such added substances exceeding the limits so fixed shall also be deemed to constitute adulteration; or

(3) If any substance has been substituted, wholly or in part therefor; or

(4) If damage or inferiority has been concealed in any manner; or

(5) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality, or make it appear better or of greater value than it is.

SEC. 10. Every vessel of the United States harvesting or processing fish or fishery products for movement in commerce shall be constructed, equipped, operated, and maintained, to meet such sanitary standards and practices as the Secretary may prescribe.

SEC. 11. All fish and fishery products processed in an official establishment for movement in commerce or in an official establishment the operations of which directly affect the movement of fish and fishery products in commerce or on vessels of the United States and the containers of such products shall be subject to inspection and reinspection by sampling or other methods by the Secretary at any time when processed for introduction into commerce.

SEC. 12. (a) Each immediate container and shipping container of wholesome and unadulterated fishery products may bear in distinctly legible form at the time such products leave the official establishment an offi-

cial inspection mark. Such container shall bear in distinctly legible form the name of the products, a statement of ingredients, if fabricated from two or more ingredients, including a declaration as to artificial flavors, colors, or preservatives, if any, the net weight or other appropriate measure of the contents of such container, and the name of the processor or the name and address of the distributor. The Secretary may permit reasonable variations and grant exemptions from the foregoing requirements when, in his judgment, such variations and exemptions would effectuate the purpose of this Act.

(b) The use of any written, printed, or graphic matter on or accompanying any fishery products or the immediate container or shipping container thereof leaving an official establishment which is false or misleading in any manner is prohibited.

(c) No fishery products leaving an official establishment may be sold or offered for sale by any person under any false or deceptive name. Established trade names which are usual to such products and which are not false and deceptive are permitted.

(d) If the Secretary determines that any label used or prepared for use by any person is false or misleading in any particular, he may order such person to discontinue the use of such label except as modified in the manner prescribed by the Secretary. Such person may request a hearing, but the use of the label shall, if the Secretary so directs, be withheld pending a hearing and final determination by the Secretary. Such final determination shall be conclusive unless within thirty days after receipt of notice of such determination such person appeals to the United States court of appeals for the circuit in which such person has his principal place of business or to the United States Court of Appeals for the District of Columbia. An appeal may be taken by filing with the clerk of such court a written petition praying that the Secretary's order be set aside or modified in the manner stated in the petition, together with a bond in such sum as the court may determine to cover the costs of the proceedings, if the court so directs. The provisions of section 204 (b) through (h) of the Act of August 15, 1921, as amended (7 U.S.C. 194), shall be applicable to appeals taken under this section.

SEC. 13. No person shall—

(1) Process, sell, offer for sale, transport, or deliver any fish or fishery products from any establishment for movement in commerce or the operations of which directly affect the movement of fish and fishery products in commerce or from a vessel of the United States which is unwholesome, adulterated, or otherwise unsuitable for use as human food;

(2) Sell or otherwise dispose of for human food any fish or fishery products which have been inspected and declared to be unwholesome or adulterated or otherwise unsuitable for use of human food under this Act;

(3) Deliver, receive, transport, sell, or offer for sale or transport for human food any fish or part thereof separately or in combination with other ingredients, other than fishery products, from an official establishment or vessel of the United States except in accordance with the provisions of this Act;

(4) Deliver, receive, transport, sell, or offer for sale or transport for human food fish or fishery products from an establishment whose certificate of registration has been suspended;

(5) Use or reuse any immediate or shipping container bearing an official inspection mark except for fishery products from an official establishment unless the mark is removed, obliterated, or otherwise destroyed;

(6) Falsely make or issue, alter, forge, simulate, counterfeit, use, or possess any official inspection certificate, memorandum, mark, or other identification, or device for making such mark or identification authorized by this Act, or cause, procure, aid, assist in, or be a party to, such false making, issuing, altering forging, simulating, counterfeiting, use, or possession contrary to the provisions of this Act.

SEC. 14. For the purpose of enforcing the provisions of this Act, any person engaged in the business of processing, transporting, shipping, or receiving fish or fishery products for movement in commerce or conducting operations which directly affect the movement of fish or fishery products in commerce shall maintain records showing, to the extent that such person is concerned therewith, the receipt, delivery, sale, movement, or disposition of fish or fishery products and shall, upon request, permit the Secretary at reasonable times to inspect such records. Such records shall be maintained for a reasonable period to be determined by the Secretary.

SEC. 15. The provisions of this Act shall not apply to any wholesale establishment where the only processing involved is the cutting up of fish or fishery products for sale to retail outlets of any kind or description; or to any retail establishments primarily engaged in selling fish and fishery products and other items directly to retail consumers; or to any fisherman selling fish harvested by him directly to retail consumers.

SEC. 16. The cost of inspection of fish or fishery products, establishments, vessels, containers, labels, or other matters in accordance with this Act and the regulations issued thereunder shall be borne by the United States, except that the cost of overtime and holiday pay for inspection service performed, in an establishment subject to inspection at the convenience of the establishment and not owing to the conditions of harvesting or processing beyond the control of the establishment, shall, at such rates as the Secretary may determine in accordance with regulations be borne by such establishment. Sums received by the Secretary for such work shall be credited to the appropriation from which payments for such work were made.

SEC. 17. The district courts of the United States shall have jurisdiction for good cause shown to restrain any violation of this Act or the regulations issued thereunder.

SEC. 18. All fish and fishery products determined to be unwholesome or adulterated pursuant to any inspection or reinspection conducted pursuant to section 11 of this Act shall be condemned. Any person whose fish and fishery products are condemned may appeal to the Secretary from such initial inspection and the condemned fish and fishery products shall be marked and segregated pending such appeal. The determination of the Secretary on appeal shall be final and if he sustains the initial determination the fish and fishery products shall be destroyed. Any fish and fishery products that may be made wholesome and unadulterated by reprocessing shall not be condemned and destroyed if reprocessed under the supervision of an inspector and found by him to be wholesome and unadulterated.

SEC. 19. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. The Secretary may utilize the services, equipment, and facilities of any Federal agency with or without reimbursement in carrying out the provisions of this Act and may designate any Federal agency as an inspection agency.

SEC. 20. If any provision of this Act or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the Act and the application of such provision to other persons and circumstances shall not be affected thereby.

S. 3299—INTRODUCTION OF A BILL TO PROVIDE A $100 MINIMUM IN MONTHLY SOCIAL SECURITY BENEFITS

Mr. KENNEDY. Mr. President, I introduce, for appropriate reference, a bill to provide a $100 minimum in monthly social security benefits, and for other purposes. I ask unanimous consent that my bill be printed in the RECORD at the conclusion of my remarks.

Mr. President, in 1935, with the passage of the Social Security Act, the Congress recognized its responsibility to our senior citizens. However, even at that time, President Roosevelt, in signing this progressive measure, stated that the provisions adopted under the act were but the cornerstone of a program he intended to expand and develop until all senior citizens were guaranteed financial independence.

The act passed in 1935, requiring the contribution of both the employer and employee in the form of a payroll tax, was based on the goal of providing a supplemental income to the aged at retirement. In the years since its enactment, the Congress has made substantial changes in both the benefit structure and in eligibility requirements. But, to date, we have not recognized that the premise of a supplemental income is not valid. For we have learned that for an overwhelming majority of social security recipients, the income they receive in the form of benefits is their only income.

Recognition of this fact forces us to realize that many of our elderly must live in poverty. If we are to end poverty among the elderly, we must begin to work toward the provision of an adequate income based on social security benefits. I have long supported the need for such a measure, as have many of my colleagues.

The bill I introduce today deserves the early consideration of the Congress during the next session. It deserves the approval of the Senate. And it is my hope that its passage will serve as the "cornerstone" for a new structure designed to guarantee a life free of poverty and indignity for all of America's elderly citizens.

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. 3299) to amend the Social Security Act to provide a 15-percent across-the-board increase in monthly benefits with a minimum primary insurance amount of $100, introduced by Mr. KENNEDY, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

S. 3299

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 "Social Security Amendments of 1970".

INCREASE IN OLD AGE, SURVIVORS AND DISABILITY INSURANCE BENEFITS

SEC. 2. (a) The Social Security Amendments of 1969 are amended as follows:

(1) Section 1002(a) is amended by striking out the table and inserting in lieu thereof:

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS

"I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount under 1967 act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
----------	$30.36	$85.90 or less	----------	$141	$100.00	$150.00
$30.37	30.92	87.20	$142	146	100.30	150.50
$30.93	31.36	88.40	147	150	101.70	152.60
$31.37	32.00	89.50	151	155	103.00	154.50
$32.01	32.60	90.80	156	160	104.50	156.80
$32.61	33.20	92.00	161	164	105.80	158.70
$33.21	33.88	93.20	165	169	107.20	160.80
$33.89	34.50	94.40	170	174	108.60	162.90
$34.51	35.00	95.60	175	178	110.00	165.00
$35.01	35.80	96.80	179	183	111.40	167.10
$35.81	36.40	98.00	184	188	112.70	169.10
$36.41	37.08	99.30	189	193	114.20	171.30
$37.09	37.60	100.50	194	197	115.60	173.40
$37.61	38.20	101.60	198	202	116.90	175.40
$38.21	39.12	102.90	203	207	118.40	177.60
$39.13	39.68	104.10	208	211	119.80	179.70
$39.69	40.33	105.20	212	216	121.00	181.50
$40.34	41.12	106.50	217	221	122.50	183.80
$41.13	41.76	107.70	222	225	123.90	185.90
$41.77	42.44	108.90	226	230	125.90	188.00
$42.45	43.20	110.10	231	235	126.70	190.10
$43.21	43.76	111.40	236	239	128.20	192.30
$43.77	44.44	112.60	240	244	129.50	195.20
$44.45	44.88	113.70	245	249	130.80	199.20
$44.89	45.60	115.00	250	253	132.30	202.40
		116.20	254	258	133.70	206.40
		117.30	259	263	134.90	210.40
		118.60	264	267	136.40	213.60
		119.80	268	272	137.80	217.60
		121.00	273	277	139.20	221.60
		122.20	278	281	140.60	224.80
		123.40	282	286	142.00	228.80
		124.70	287	291	143.50	232.80
		125.80	292	295	144.70	236.00
		127.10	296	300	146.20	240.00
		128.30	301	305	147.60	244.00
		129.40	306	309	148.90	247.20
		130.70	310	314	150.40	251.20
		131.90	315	319	151.70	255.20
		133.00	320	323	153.00	258.40
		134.30	324	328	154.50	262.40
		135.50	329	333	155.90	266.40
		136.80	334	337	157.40	209.60
		137.90	338	342	158.60	273.60
		139.10	343	347	160.00	277.60
		140.40	348	351	161.50	280.80
		141.50	352	356	162.80	284.80
		142.80	357	361	164.30	288.80
		144.00	362	365	165.60	292.00
		145.10	366	370	166.90	296.00
		146.40	371	375	168.40	300.00
		147.60	376	379	169.80	303.20
		148.90	380	384	171.30	307.20
		150.00	385	389	172.50	311.20
		151.20	390	393	173.90	314.40
		152.50	394	398	175.40	318.40
		153.60	399	403	176.70	322.40
		154.90	404	407	178.20	325.60
		156.00	408	412	179.40	329.60
		157.10	413	417	180.70	333.60
		158.20	418	421	182.00	336.80
		159.40	422	426	183.40	340.80
		160.50	427	431	184.60	344.80
		161.60	432	436	185.90	348.80
		162.80	437	440	187.30	352.00
		163.90	441	445	188.50	356.00
		165.00	446	450	189.80	360.00
		166.20	451	454	191.20	363.20
		167.30	455	459	192.40	367.20
		168.40	460	464	193.70	371.20
		169.50	465	468	195.00	374.40
		170.70	469	473	196.40	378.40
		171.80	474	478	197.60	382.40
		172.90	479	482	198.90	385.60
		174.10	483	487	200.30	389.60
		175.20	488	492	201.50	393.60
		176.30	493	496	202.80	396.80
		177.50	497	501	204.20	400.80
		178.60	502	506	205.40	402.80
		179.70	507	510	206.70	404.40
		180.80	511	515	208.00	406.40
		182.00	516	520	209.30	408.40
		183.10	521	524	210.60	410.00
		184.20	525	529	211.90	412.00
		185.40	530	534	213.30	414.00
		186.50	535	538	214.50	415.60
		187.60	539	543	215.80	417.60

"I (Primary insurance benefit under 1939 act, as modified)		II (Primary insurance amount under 1967 act)	III (Average monthly wage)		IV (Primary insurance amount)	V (Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
		$188.80	$544	$548	$217.20	$419.60
		189.90	549	553	218.40	421.60
		191.00	554	556	219.70	422.80
		192.00	557	560	220.80	424.40
		193.00	561	563	222.00	425.60
		194.00	564	567	223.10	427.20
		195.00	568	570	224.30	428.40
		196.00	571	574	225.40	430.00
		197.00	575	577	226.60	431.20
		198.00	578	581	227.70	432.80
		199.00	582	584	228.90	434.00
		200.00	585	588	230.00	435.60
		201.00	589	591	231.20	436.80
		202.00	592	595	232.30	438.40
		203.00	596	598	233.50	439.60
		204.00	599	602	234.60	441.20
		205.00	603	605	235.80	442.40
		206.00	606	609	236.90	444.00
		207.00	610	612	238.10	445.20
		208.00	613	615	239.20	446.80
		209.00	617	620	240.40	448.40
		210.00	621	623	241.50	449.60
		211.00	624	627	242.70	451.20
		212.00	628	630	243.80	452.40
		213.00	631	634	245.00	454.00
		214.00	635	637	246.10	455.20
		215.00	638	641	247.30	456.80
		216.00	642	644	248.40	458.00
		217.00	645	648	249.60	459.60
		218.00	649	653	250.70	461.60
			654	657	252.00	463.20
			658	661	253.00	464.80
			662	666	254.00	466.80
			667	670	255.00	468.40
			671	674	256.00	470.00
			675	678	257.00	471.60
			679	683	258.00	473.60
			684	687	259.00	475.20
			688	691	260.00	476.80
			692	695	261.00	478.40
			696	700	262.00	480.40
			701	704	263.00	482.00
			705	708	264.40	483.60
			709	712	265.00	485.20
			713	717	266.00	487.20
			718	721	267.00	488.80
			722	725	268.00	490.40
			726	729	269.00	492.00
			730	734	270.00	494.00
			735	738	271.00	495.60
			739	742	272.00	497.20
			743	746	273.00	498.80
			747	751	274.00	500.80
			752	755	275.00	502.40
			756	759	276.00	504.00
			760	763	277.00	505.60
			764	768	278.00	507.60
			769	772	279.00	509.20
			773	776	280.00	510.80
			777	780	281.00	512.40
			781	785	282.00	514.40
			786	789	283.00	516.00
			790	793	284.00	517.60
			794	797	285.00	519.20
			798	802	286.00	521.20
			803	806	287.00	522.80
			807	810	288.00	524.40
			811	814	289.00	526.00
			815	819	290.00	528.00
			820	823	291.00	529.60
			824	827	292.00	531.20
			828	831	293.00	532.80
			832	836	294.00	534.80
			837	840	295.00	536.40
			841	844	296.00	538.00
			845	848	297.00	539.60
			849	853	298.00	541.60
			854	857	299.00	543.20
			858	861	300.00	544.80
			862	865	301.00	546.40
			866	870	302.00	548.40
			871	874	303.00	550.00
			875	878	304.00	551.60
			879	882	305.00	553.20
			883	887	306.00	555.20
			888	891	307.00	556.80
			892	895	308.00	558.40
			896	900	309.00	560.40

"TABLE FOR DETERMINING PRIMARY INSURANCE AMOUNT AND MAXIMUM FAMILY BENEFITS—Continued

I		II	III		IV	V
(Primary insurance benefit under 1939 act, as modified)		(Primary insurance amount under 1967 act)	(Average monthly wage)		(Primary insurance amount)	(Maximum family benefits)
If an individual's primary insurance benefit (as determined under subsec. (d)) is—		Or his primary insurance amount (as determined under subsec. (c)) is—	Or his average monthly wage (as determined under subsec. (b)) is—		The amount referred to in the preceding paragraphs of this subsection shall be—	And the maximum amount of benefits payable (as provided in sec. 203(a)) on the basis of his wages and self-employment income shall be—
At least—	But not more than—		At least—	But not more than—		
			$901	$904	$310.00	$562.00
			905	908	311.00	563.60
			909	912	312.00	565.20
			913	917	313.00	567.20
			918	921	314.00	568.80
			922	925	315.00	570.40
			926	929	316.00	572.00
			930	934	317.00	574.00
			935	938	318.00	575.60
			939	942	319.00	577.20
			943	946	320.00	578.80
			947	951	321.00	580.80
			952	955	322.00	582.40
			956	959	323.00	584.00
			960	963	324.00	585.60
			964	968	325.00	587.60
			969	972	326.00	589.20
			973	976	327.00	590.80
			977	980	328.00	592.40
			981	985	329.00	594.40
			986	989	330.00	596.00
			990	993	331.00	597.60
			994	997	332.00	599.20
			998	1,000	333.00	600.40"

(2) Section 1003 is amended by striking out "$46" each place that it appears and inserting in lieu thereof "$73" and by striking out "$23" each place that it appears and inserting in lieu thereof "$36.50".

(b) The amendments made by subsection (a) shall apply with respect to monthly benefits under Title II of the Social Security Act for months after December 1969 and with respect to lump-sum death payments under such Title in the case of deaths occurring after December 1969.

INCREASE OF EARNINGS COUNTED FOR BENEFIT AND TAX PURPOSES

SEC. 3 (a) (1) (A). Section 209(a) (5) of the Social Security Act is amended by inserting "and prior to 1973" after "1967".

(B) Section 209(a) of such Act is further amended by adding at the end thereof the following new paragraph:

"(6) That part of remuneration which, after remuneration (other than remuneration referred to in the succeeding subsections of this section) equal to $12,000 with respect to employment has been paid to an individual during any calendar year after 1972, is paid to such individual during such calendar year;".

(2) (A) Section 211(b) (1) (E) of such Act is amended by inserting "and prior to 1973" after "1967", and by striking out "; or" and inserting in lieu thereof "; and".

(B) Section 211(b) (1) of such Act is further amended by adding at the end thereof the following new subparagraph:

"(F) For any taxable year ending after 1972, (i) $12,000, minus (ii) the amount of the wages paid to such individual during the taxable year; or".

(3) (A) Section 213(a) (2) (ii) of such Act is amended by striking out "after 1967" and inserting in lieu thereof "after 1967 and before 1973, or $12,000 in the case of a calender year after 1972".

(B) Section 213(a) (2) (iii) of such Act is amended by striking out "after 1967" and inserting in lieu thereof "after 1967 and before 1973 or $12,000 in the case of a taxable year ending after 1972".

(4) Section 215(e) (1) of such Act is amended by striking out "and the excess over $7,800 in the case of any calendar year after 1967" and inserting in lieu thereof "the excess of $7,800 in the case of any calendar year after 1967 and before 1973, and the excess over $12,000 in the case of any calendar year after 1972".

(b) (1) (A) Section 1402 (B) (1) (E) of the Internal Revenue Code of 1954 (relating to definition of self-employment income) is amended by inserting "and before 1973" after "1967", and by striking out "; or" and inserting in lieu thereof "; and".

(B) Section 1402(b) (1) of such Code is further amended by adding at the end thereof the following new subparagraph:

"(F) for any taxable year ending after 1972, (i) $12,000, minus (ii) the amount of the wages paid to such individual during the taxable year; or".

(2) Section 3121(a) (1) of such Code (relating to definition of wages) is amended by striking out "$7,800" each place it appears and inserting in lieu thereof "$12,000".

(3) The second sentence of section 3122 of such Code (relating to Federal service) is amended by striking out "$7,800" and inserting in lieu thereof "$12,000".

(4) Section 3125 of such Code (relating to returns in the case of governmental employees in Guam, American Samoa, and the District of Columbia) is amended by striking our "$7,800" each place it appears and inserting in lieu thereof "$12,000".

(5) Section 6413(c) (1) of such Code (relating to special refunds of employment taxes) is amended:

(A) by inserting "and prior to the calendar year 1973" after "the calendar year 1967";

(B) by inserting after "exceed $7,800," the following: "or (E) during any calendar year after the calendar year 1972, the wages received by him during such year exceed $12,000,"; and

(C) by inserting before the period at the end thereof the following: "and before 1973, or which exceeds the tax with respect to the first $12,000 of such wages received in such calendar year after 1972".

(6) Section 6413(c) (2) (A) of such Code (relating to refunds of employment taxes in the case of Federal employees) is amended by striking out "or $7,800 for any calendar year after 1967" and inserting in lieu thereof "$7,800 for the calendar year 1968, 1969, 1970, 1971, or 1972, or $12,000 for any calendar year after 1972".

(c) The amendments made by subsections (a) (1) and (a) (3) (A), and the amendments made by subsection (b) (except paragraph (1) thereof), shall apply only with respect to remuneration paid after December 1972. The amendments made by subsections (a) (2), (a) (3) (B), and (b) (1) shall apply only with respect to taxable years ending after 1972. The amendment made by subsection (a) (4) shall apply only with respect to calendar years after 1972.

S. 3300—INTRODUCTION OF A BILL TO ESTABLISH THE BIRTHPLACE OF SUSAN B. ANTHONY IN ADAMS, MASS., AS A NATIONAL HISTORIC SITE

Mr. KENNEDY. Mr. President, I introduce, for appropriate reference, a bill to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site, and for other purposes. I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

Susan B. Anthony lived in that period of American history during which many wrongs were righted through the perseverance and dedication of dynamic leaders. Born in 1820, she lived to see the abolition of slavery and the granting of citizenship to the Negro. But she did not live to see the accomplishment of the goal to which she devoted her energies and her life—voting privileges and equal rights for women.

Her crusade for these now recognized rights began when she first experienced discrimination—as a teacher she was forced to accept $2.50 per week for work for which a man teacher was paid $10. She also learned that she had no right to keep the money she earned if her father chose to keep it. At that time a single girl was under the legal control of her father until she married and became subject to the legal control of her husband.

Miss Anthony worked for 50 years for equal rights for women, especially for the voting privilege. She appeared before every session of Congress for many years. Her slogan was:

Principle, not policy; justice, not favor; men, their rights and nothing more; women, their rights and nothing less.

Through her efforts, the National Women Suffrage Association was organized in 1869, with Elizabeth Stanton as president. In 1890, the association merged with the American Woman Suffrage Association to become the National American Woman Suffrage Association, again with Mrs. Stanton as president. In 1892, Miss Anthony became president and served until 1900, when she retired at the age of 80.

In 1872, after the failure to have women included in the 15th amendment, Miss Anthony and 15 fellow crusaders—in a plan to test the legality of woman suffrage under the 14th amendment—registered to vote in Rochester, N.Y. They actually succeeded in casting their ballots but were promptly arrested and convicted of illegal voting. Their case was brought to the Supreme Court which ruled that the 14th amendment did not give women the right to vote.

As a result of this decision, Miss Anthony and her followers proceeded to have introduced in Congress an amendment of their own. Their amendment, expressly giving the vote to women, was first introduced in Congress in 1878.

Miss Anthony died in 1906. Fourteen years later, in 1920, her amendment was finally adopted.

Mr. President, the people of Massachusetts are proud of our native daughter. The Nation owes her a debt of gratitude. Today, as we become increasingly aware of the contribution of women to the social and economic well-being of our country we must rededicate ourselves to the goal of full opportunity for women. For, even today, many inequities still exist in our treatment of women. Many States still maintain laws clearly discriminatory and many of us still practice discrimination in our treatment of working women.

Susan B. Anthony began a crusade which is—even today—unfinished. Her work and her leadership led to the accomplishment of much of the program she advocated. I would hope that my colleagues agree that her birthplace should be preserved as a part of the national park system and I am more than pleased to introduce this bill to accomplish that end.

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. 3300) to establish the birthplace of Susan B. Anthony in Adams, Mass., as a national historic site, and for other purposes, introduced by Mr. KENNEDY, was received, read twice by its title, referred to the Committee on Interior and Insular Affairs, and ordered to be printed in the RECORD, as follows:

S. 3300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall acquire on behalf of the United States the house and lot in Adams, Massachusetts, where Susan B. Anthony was born. The legal description of such lot shall be determined by the Secretary of the Interior.

SEC. 2. The Secretary of the Interior, acting through the National Park Service, shall administer, protect, develop, and maintain the house and lot acquired pusuant to the first section as a historic site in accordance with the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

SEC. 3. There are hereby appropriated such sums as are necessary to carry out the purpose of this Act.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 292

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the next printing, the names of the following Senators be added as cosponsors of Senate Resolution 292, to express the sense of the Senate with respect to troop deployment in Europe:

Senators TALMADGE, HUGHES, KENNEDY, FULBRIGHT, BYRD of West Virginia, MUSKIE, SYMINGTON, SPARKMAN, YOUNG of Ohio, PROXMIRE, and INOUYE.

Also Senators HART, WILLIAMS of New Jersey, PASTORE, CANNON, MOSS, YARBOROUGH, MONDALE, ELLENDER, HARRIS, BURDICK, HATFIELD.

Also Senators YOUNG of North Dakota, AIKEN, BAYH, BOGGS, CHURCH, COOK, CRANSTON, DOMINICK, GOODELL, HOLLINGS, and JORDAN of Idaho.

Also Senators LONG, MCGOVERN, METCALF, NELSON, PEARSON, SAXBE, SCHWEIKER, TYDINGS, MAGNUSON, EAGLETON, WILLIAMS of Delaware, and HARTKE.

In addition to the names of Senators GRAVEL and RANDOLPH, the total number now is 48.

I ask unanimous consent that a copy 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:

S. RES. 292

Resolution to express the sense of the Senate with respect to troop deployment in Europe

Whereas the foreign policy and military strength of the United States are dedicated to the protection of our national security, the preservation of the liberties of the American people; and the maintenance of world peace; and

Whereas the United States, in implementing these principles, has maintained large contingents of American Armed Forces in Europe, together with air and naval units, for twenty years; and

Whereas the security of the United States and its citizens remains interwoven with the security of other nations signatory to the North Atlantic Treaty as it was when the treaty was signed, but the condition of our European allies, both economically and militarily, has appreciably improved since large contingents of forces were deployed; and

Whereas the means and capacity of all members of the North Atlantic Treaty Organization to provide forces to resist aggression has significantly improved since the original United States deployment; and

Whereas the commitment by all members of the North Atlantic Treaty is based upon the full cooperation of all treaty partners in contributing materials and men on a fair and equitable basis, but such contributions have not been forthcoming from all other members of the organization; and

Whereas relations between Eastern Europe and Western Europe were tense when the large contingents of United States forces were deployed in Europe but this situation has now undergone substantial change and relations between the two parts of Europe are now characterized by an increasing two-way flow of trade, people, and other peaceful exchange; and

Whereas the present policy of maintaining large contingents of United States forces and their dependents on the European Continent also contributes further to the fiscal and monetary problems of the United States: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that, with changes and improvements in the technique of modern warfare and because of the vast increase in capacity of the United States to wage war and to move military forces and equipment by air, a substantial reduction of United States forces permanently stationed in Europe can be made without adversely affecting either our resolve or ability to meet our commitment under the North Atlantic Treaty;

(2) S. Res. 99, adopted in the Senate, April 4, 1951, is amended to contain the provisions of this resolution and, where the resolution may conflict, the present resolution is controlling as to the sense of the Senate.

IN PRAISE OF SENATE EMPLOYEES FOR THEIR WORK DURING FIRST SESSION OF 91ST CONGRESS

Mr. THURMOND. Mr. President, we have had a long, hard year in this first session of the 91st Congress, and I wish to take this opportunity to express my appreciation to all the employees of the Senate and the Congress who have executed their duties in the usual exemplary manner.

We are fortunate to have such capable men as Mark Trice and Bill Brownrigg and their staff on this side of the aisle and our colleagues across the way are well served by Bob Dunphy, Frank Valeo, Stan Kimmitt, and their assistants. Especially helpful during this year have been Floyd Riddick, Parliamentarian; Bernard Somers, Journal Clerk; Edward Mansur, Jr., legislative clerk; James Johnson, assistant legislative clerk; and Charles J. Drescher, Chief Reporter of Debates, as well as the other fine men who work with them here in the Senate.

A particular note of praise is deserved by the Capitol Police Force. They have had to handle several major demonstrations, many unusual committee sessions and scores of visitors this year as well as two State funerals when the Nation paid honor to the services of the late Dwight Eisenhower and Everett Dirksen.

There are doubtless many others who should be mentioned, but as one Senator among 100, I wanted to take these few moments to express my personal gratitude to these men and women who handle the day by day chores which are vital to a smooth functioning of the world's greatest legislative body.

To each of them, and to their wives and families, I extend my heartfelt

wishes for a joyous Christmas season and health and happiness in the New Year.

ADJOURNMENT UNTIL 11 A.M. TOMORROW, TUESDAY, DECEMBER 23, 1969

Mr. MANSFIELD. Mr. President, in view of developments, I ask unanimous consent that the order to stand in recess until 10 o'clock tomorrow morning be vacated, and that, instead, the Senate now stand in adjournment until 11 o'clock tomorrow morning.

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

Thereupon (at 11 o'clock and 34 minutes p.m.), the Senate adjourned until tomorrow, Tuesday, December 23, 1969, at 11 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 22, 1969:

IN THE COAST GUARD

The nominations beginning David W. Hiller, to be lieutenant commander, and ending Joseph O. Fullmer, to be lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on December 10, 1969.

WITHDRAWAL

Executive nomination withdrawn from the Senate December 22, 1969:

DIPLOMATIC AND FOREIGN SERVICE

Robert Strausz-Hupé, of Pennsylvania, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of Morocco, which was sent to the Senate on August 5, 1969.

HOUSE OF REPRESENTATIVES—*Monday, December 22, 1969*

The House met at 10:30 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Unto us a child is born, unto us a Son is given; and His name shall be called "Wonderful Counselor, Mighty God, Everlasting Father, Prince of Peace."—Isaiah 9: 6.

Eternal Spirit, who hast been our refuge and strength in every age and who art our help in this hour of need, grant unto us Thy blessing this advent season and give to us the assurance of Thy presence as we draw near Christmas Day.

May the joy and good will that passes around the world at this time be ours and may we respond to Thy love by giving ourselves in greater devotion to the welfare of our people and in deeper dedication to cooperation among the nations. So may we learn to live at peace with ourselves and in good will with all Thy family.

"We hear the Christmas angels
The great glad tidings tell:
O come to us, abide with us,
Our Lord Immanuel."

Amen.

THE JOURNAL

The Journal of the proceedings of Saturday, December 20, 1969, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate has tabled 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. 15149) entitled "An act making appropriations for foreign assistance and related programs for the fiscal year ending June 30, 1970, and for other purposes".

It also announced that the Senate further insists upon its amendments to the above-entitled bill, disagreed to by the House of Representatives, and request a further conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MCGEE, Mr. ELLENDER, Mr. HOLLAND, Mr. MONTOYA, Mr. FONG, Mr. COTTON, and Mr. PEARSON to be the conferees on the part of the Senate, with instructions.

PRINTING OF COMMITTEE ACTIVITY REPORTS

Mr. FRIEDEL. Mr. Speaker, with reference of the printing of committee activity reports for the session, I wish to remind the chairmen of all committees that the Joint Committee on Printing has very properly ruled that the printing of such reports both as committee prints and in the RECORD is duplication, the cost of which cannot be justified.

It is requested that committee chairmen decide whether they wish these reports printed as committee prints or in the RECORD since the Government Printing Office will be directed not to print them both ways.

MERRY CHRISTMAS

(Mr. DORN asked and was given permission to address the house for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. DORN. Mr. Speaker, Merry Christmas and many thanks are in order to the reporters, pages, doorkeepers, clerks, the post office personnel, telephone operators, and all other employees of the Congress. I merely name a few of the many who deserve our thanks and best wishes.

This has been a long hard session and we simply could not function as the world's greatest deliberative body without them. I am grateful for their cooperation and dedication to the House and the Senate. They are a vital part of this great institution.

So, Mr. Speaker, a very Merry Christmas to all of them. I wish for them a joyous Christmas season and the very best New Year of all.

CALL OF THE HOUSE

Mr. CONABLE. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 348]

Abbitt	Farbstein	Montgomery
Addabbo	Fascell	Morse
Anderson, Ill.	Findley	Morton
Anderson, Tenn.	Fish	Moss
	Ford, Gerald R.	Murphy, N.Y.
Andrews, Ala.	Ford, William D.	Nedzi
Andrews, N. Dak.	Fountain	O'Konski
	Galifianakis	O'Neal, Ga.
Baring	Gallagher	Ottinger
Berry	Gaydos	Philbin
Bevill	Gilbert	Poage
Biaggi	Goldwater	Podell
Biester	Gray	Powell
Bingham	Green, Oreg.	Quillen
Blackburn	Green, Pa.	Rees
Blatnik	Griffiths	Reid, N.Y.
Bolling	Hagan	Riefel
Caffery	Hall	Rhodes
Cahill	Halpern	Rostenkowski
Carey	Harrington	Roybal
Celler	Harsha	Ruppe
Clay	Harvey	Sandman
Collier	Hathaway	Saylor
Colmer	Hébert	Sikes
Conyers	Hull	Sisk
Corman	Jones, Ala.	Smith, Calif.
Coughlin	Kirwan	Snyder
Cowger	Landgrebe	Staggers
Cramer	Lipscomb	Stephens
Davis, Ga.	Long, La.	Stokes
Dawson	Long, Md.	Sullivan
Dent	McCarthy	Teague, Tex.
Downing	McClory	Tunney
Eckhardt	McKneally	Watkins
Edwards, Calif.	Martin	Whitehurst
Erlenborn	May	Wilson, Bob
Esch	Michel	Wright
Eshleman	Miller, Calif.	Wydler
Evins, Tenn.		Zion

The SPEAKER. On this rollcall 319 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE TAX REFORM CONFERENCE REPORT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, the tax reform conference report is available today, and I consider it a triumph of the compromisers' art. I will support it, and urge its acceptance, despite the disappointments which any individual feels with the end product of a major compromise. I personally think it would be disastrous if no compromise had been