Mr. SCHEUER, Mr. WHITEHURST, Mr. CHARLES H. WILSON, and Mr. BUSH):

H. Res. 1123. Resolution expressing the sense of the House of Representatives with respect to an international compact regarding the safety of persons entitled to diplomatic immunity; to the Committee on Foreign Affairs.

By Mr. PATTEN:

H. Res. 1124. Resolution calling for a national commitment to cure and control cancer within this decade; to the Committee on Interstate and Foreign Commerce.

By Mr. GAYDOS:

H. Res. 1125. Resolution to set an expenditure limitation on the American military effort in Southeast Asia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BURTON of California:

H.R. 18281. A bill for the relief of Mrs. Kayo N. Carvell; to the Committee on the Judiciary.

H.R. 18282. A bill for the relief of Antonio Dominador de Castro; to the Committee on the Judiciary.

By Mr. CASEY (by request):

H.R. 18283. A bill for the relief of Col. Joseph B. Peabody; to the Committee on Armed Services.

By Mr. CORMAN:

H.R. 18284. A bill for the relief of Mrs. Rosita I. Ines; to the Committee on the Judiciary.

By Mr. MACDONALD of Massachusetts:

H.R. 18285. A bill for the relief of Luis Francisco Li Donni; to the Committee on the Judiciary.

SENATE—*Tuesday, June 30, 1970*

The Senate met at 9 a.m. and was called to order by the Acting President pro tempore (Mr. METCALF).

The Reverend Howard Stone Anderson, D.D., minister, First Congregational United Church of Christ, Washington, D.C., offered the following prayer:

O God, our help in ages past, our hope for today and forever, give us thankful hearts, humble minds and wills of righteous purpose.

Our fathers came across wide seas and from strange shores and have given us this land of liberty. Make us glad for our heritage and grant that we neither grow faint in faith nor fail in courage.

We confess our blindness, bitterness, and confusion. But we would earnestly pursue and wage peace. Save us from violence and discord, from pride and arrogance, and from every evil way.

We pray for the Members of this Senate, for the President of the United States, and for all who share in the leadership of our Nation. Make us a united people, serving Thee in holy fear and loving trust.

This we ask for Thy name's sake. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, June 29, 1970, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from South Carolina (Mr. HOLLINGS) is now recognized for not to exceed one-half hour.

THE WAR IN VIETNAM

Mr. HOLLINGS. Mr. President, I speak today amidst a rising crisis of confidence in the Government of our Republic. Tensions flare, passions erupt, and there are angry demonstrations by the radical left and the radical right. The vast majority of Americans in the middle are confused—confused by the simple-minded rhetoric of extremism, confused by a stalemated war in which military strategy plays second fiddle to politics, confused by an administration that drifts from crisis to crisis without leadership and without policy. Every week brings a new somersault, and after years of such gymnastics, it is no wonder we all feel a little bit dizzy.

From the time this war began I have advocated military victory in Vietnam. I protested day in and day out the timidity with which the war was fought. I am neither soothsayer nor prophet, but I believe the battle could have been won. So do many in the military, along with millions of my countrymen. We had the power but lacked the leadership, so instead of making maximum use of our military superiority, we enchained ourselves in a policy of recognizing sanctuaries, of failing to take the war to the enemy's home ground, and we frittered away the power of the world's mightiest Nation. My constituency knew where I stood. President Johnson knew where I stood. President Nixon knew where I stood.

As Lord Parlmerston said over 100 years ago, "England has no permanent friends; she has only permanent interests." So it is with America. We had become involved, I believed, in a just and necessary war, a war to protect the interests and the commitments of the United States. The strategy of the Vietcong and the North Vietnamese was as insidious in its own way as the Japanese attack on Pearl Harbor. It was a three-phase strategy of infiltrating the villages and hamlets of the South, then beginning guerrilla operations, and finally engaging in main force, uniformed warfare. The only way to counter such a strategy was to recognize that the war was not confined to the South, but was to spread over all of Indochina. Logically, then, we should have recognized no sanctuaries in Thailand, Cambodia, Laos and, most important of all, North Vietnam.

Mr. President, in the spirit of staying within the confines of the time limit provided me, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the message of President Johnson to Congress of August 5, 1964, as well as the message when he signed the congressional resolution on Southeast Asia on August 10, 1964.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. HOLLINGS. Mr. President, in the first phases of the war, President Johnson seems to have recognized this threat to the larger strategic interests of the United States. As he said in June of 1964, there were four simple propositions behind his move into Vietnam:

1. *America keeps her word.* Here as elsewhere, we must and shall honor our commitments.

2. *The issue is the future of Southeast Asia as a whole.* A threat to any nation in that region is a threat to all, and a threat to us.

3. *Our purpose is peace.* We have no military, political, or territorial ambitions in the area.

4. *This is not just a jungle war, but a struggle for freedom on every front of human activity.* Our military and economic assistance to South Vietnam and Laos in particular has the purpose of helping these countries to repel aggression and strengthen their independence.

But as the months wore on, confusion and uncertainty seeped into the administration's explanation of why we were in Vietnam. The President sidestepped and backstepped and waltzed around his original understanding of the problem. The commitment was reduced to one of protecting the self-determination of South Vietnam and the larger problem of Southeast Asia as a whole was conveniently pigeonholed. When Richard Nixon became President, he too failed to see the challenge we face.

Even more obvious is the fact that neither Presidents Johnson nor Nixon fought the war in such a way as to crush the aggression hurled at us by North Vietnam. After 6 years of intense battle for a state not as large as our own State of Missouri, there still remains at this moment 215,000 enemy troops.

In June of 1969, President Nixon announced his withdrawal program, and in September of that year said he would accept a duly-elected Communist government in the South. I did not like it, but a majority of the American people believed that in the absence of victory it was wise to withdraw. One week before the Cambodian invasion the President announced his withdrawal program was working so well that another 150,000 men could be sent home. Victory was no

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longer in the cards. The policy that we hawks fought for had no chance. So rather than carry on a hopeless cause, I went along. In the months after the President announced his withdrawal policy, most of us here in the Congress did our best to help him carry it out. If victory could not be had, withdrawal was obviously imperative.

Then, in an atmosphere of crisis and panic, the President went on television to announce the invasion of neutral Cambodia. American troops were sent in. We made war for the first time, in Cambodia, without consulting the Congress. So the war is enlarged but to no avail. We have gone into another country not to win or protect our larger interests, but instead to fight with the same limited goals, the same shackling strategy. We are bogged down in Cambodia without understanding that the rules we play by are to no avail.

Make no mistake about it—the war has been enlarged. In spite of all the rosy, muddle-headed optimism of the administration, in spite of the fact that American ground forces are pulling back this week, we are caught in a larger web than ever. Today we are told that the troops are out, we have pulled back. But we continue with our military aid to Cambodia. Our pilots still risk life and limb in the skies over Cambodia. And Lon Nol tells us he may ask our troops to come back. The deeper we sink into this quagmire, the more elusive peace becomes. We are being sucked into defending still another remote Asian country yet without the will to win. The facts speak for themselves—we have just turned another Nixon somersault. On May 13 of this year, the Secretary of State argued that we would not "become militarily involved in support of the Lon Nol government—or any other government" in Phnom Penh. Then, just last week, the Secretary changed his tune and stated that our bombing raids deep in Cambodia have a dual purpose—to help our troops and at the same time serve the Cambodian Government. When the invasion began, President Nixon warned us of Communist troops massing in eastern Cambodia, poised to attack. Yet Secretary Laird has since admitted that on that very day, Communist forces were moving westward, "in the other direction for the first time." Why, it sounds like a replay of our original involvement in Vietnam so many years and lives ago. The same garbled explanations, the same utter confusion, the same lack of credibility. But we still lack the will to win, the understanding that there are no sanctuaries in a war such as this.

If we are not to have a military victory and if we refuse to give the man on the battlefield the command to win, then why spread our involvement to still another country? If the war is going to be expanded, expand it into North Vietnam where it will do some good. But do not let the President send more young men—husbands, fathers, brothers and sons—into the jungles shackled by a no-win policy. With all the tons of rice and supplies that have been supposedly captured, one afternoon's bombing run over Hanoi would have done the same thing with few or no American casualties.

Since President Nixon took office on January 19, some 560,000 young Americans have been sent to Vietnam. That is at the rate of about 35,000 a month. We have all heard about the matter of withdrawal, which we support. But while some come home, others go over, and amidst all the hopeful oratory of the administration, the fact remains that 560,000 men have been sent to Vietnam in the past 16 months and have been put in the field of battle for the first time in their lives. Think of it—well over half a million of our finest young people in just 16 months. Sent to a war where we seek no victory, fighting in a land where we are now willing to accept a Communist government. Is it any wonder that Americans are confused and angry? How much longer must this senseless "Operation Meatgrinder" go on?

When candidate Nixon was running for the Presidency in 1968, he assured us that he had a plan to end the war. I interject at that particular point, Mr. President, to say that candidate Nixon never ran on a ticket of withdrawal. Make no mistake about that, to quote the President's favorite saying.

Candidate Nixon ran on a plank of victory.

Gen. Mark Clark, of South Carolina, was candidate Nixon's campaign manager in our State. General Clark told the people of South Carolina:

> I know the Communists. Vice President Nixon knows the Communists. And he knows the threats of communism. He knows that the Communists only understand the language of force.

General Clark said:

> I remember when I was United Nations' Commander and General Eisenhower became President that he got on the telephone with a command to move forward. And for 8 weeks, around the clock, we knocked the socks off them.

General Clark added that after 8 weeks of this type of fighting, at 1 o'clock one morning while in a trailer, he got a call from the commander of forces in North Vietnam who requested that they meet at the conference table. Clark knew how to deal with the Communists. And the general, as Richard Nixon's campaign manager, assured us that Nixon did, too. As Clark told the people:

> I urge you to support candidate Nixon for the Presidency, for Commander in Chief, because he understands threats and he understands the only way to solve the problem.

That is the reason for a good bit of the trauma in my section of the country. Our people believe in victory and do not clearly see that administration policy is no longer to seek such a victory. South Carolinians are understandably confused. There are 215,000 enemy troops in Vietnam. There are 250,000 troops in the sanctuaries of North Vietnam, massed along the DMZ, while 70,000 North Vietnamese uniformed troops are in Laos in the sanctuaries, not including 48,000 Pathet Lao. There still remain 60,000 to 70,000 in Cambodia, although we were told 40,000. But we are in a policy of withdrawal, which is simply and solely a policy of retreat.

However, the people back home whom I represent do not believe that we are in retreat at all. They still think we are aiming for the victory that General Clark said candidate Nixon would aim for as President. When candidate Nixon was running for President in 1968, he assured us of that.

If anyone can see any plan, any consistency in administration actions, I pray the Lord that he stand up so that we too be allowed to see the light.

In December of 1969, President Nixon signed into law the Cooper-Church amendment. This bill urged against further involvement in Laos and Thailand, and provided for orderly and constitutional consultation between the executive and legislative branches. Cambodia was not included because of administration statements that it was a sanctuary and no action was contemplated there. We were told that the Cooper-Church amendment was—quoting the leaders on the Senate floor from the CONGRESSIONAL RECORD—"definitely in line with administration policy" and that "the President is pleased with the amendment and he recognizes that it is in accordance with his announced policy."

So in December the President's plan is to keep out of Cambodia; in April it is to go in. In December it is to recognize the constitutional role of Congress; in April it is to ignore Congress.

In December it is administration policy to retain the Gulf of Tonkin resolution, to urge the Senate not to repeal it. On March 12, 1970, comes further administration warning that repeal of Tonkin would be unwise, that to have the measure repealed would set in motion adverse reactions and results in all of Southeast Asia with respect to President Nixon's commitments. But by June the President turns another somersault by instructing his spokesman on the Senate floor to have the Tonkin resolution repealed. The resolution suddenly became obsolete in the administration's thinking, it is no longer needed.

When the Gulf of Tonkin resolution was passed in 1964, President Johnson stated that it was his responsibility under the Constitution to seek congressional approval for his policy, and he proudly announced approval by a total House and Senate vote of 502 to 2. In February of this year, on CBS, President Johnson stated that he never would have gone in had he not been given the Gulf of Tonkin resolution. Now, suddenly, the authorization of Congress, the law of the land, is obsolete.

Last week, I voted to keep the Tonkin resolution on the books. It was, after all, the only congressional authority that the President had to fight the war. Despite all the high-faluting debates and technical arguments, the fact remains that Congress, and Congress alone, has the power to declare war. We are in a war—this is no police action, no spur-of-the-moment emergency demanding a quick response—not since our struggle for independence nearly 200 years ago have we fought a war as long as this one, the longest war in our history, other than the Revolution. Congress declares war, and to ignore Congress in fighting

this bloodbath is a flagrant example of Executive usurpation.

The Constitution is clear on this point, the intent of the Founding Fathers is obvious to all who have eyes to read. Article I, section 8, clause 11, says that Congress shall have the power to declare war. Reread the records of the Constitutional Convention in Philadelphia and you will quickly realize the framers' intention that Congress alone will decide when this country shall go to war. When it was suggested that perhaps the President should be cloaked with the war-making responsibility, most of the delegates were shocked.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks an article which was published in yesterday's News and Courier of Charleston, S.C., entitled "War Powers Debate Began with Founding Fathers."

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

(See exhibit 2.)

Mr. HOLLINGS. Mr. President, the solution arrived at was that the President was given the power of repelling an invasion of America, as article 4, section 4, provides. As Senator SAM ERVIN, the constitutional authority of the Senate, has said:

> The President of the United States has no capacity, under the Constitution, to put the United States at war in an offensive war—that is, a war which is not necessary for the defense of this country—without a declaration of war from the Congress or the equivalent of a Congressional declaration of war.

The Gulf of Tonkin resolution perhaps provided that equivalent declaration of war, but now the President seeks to strike it from the books, and to carry on the war as he chooses fit, with not so much as a passing glance at the Constitution or the Congress.

As Senator ERVIN has said,

> I cannot view it as anything but intellectual and constitutional schizophrenia that the administration should stand here and fight the Church-Cooper Amendment for all these weeks and then make through its spokesman the proposal on the floor of the Senate that the Senate repeal the only action taken by Congress which gives the President authority to use the Armed Forces of this country in combat in Southeast Asia.

I come from a section of the country that has long prided itself on its opposition to too much Presidential power. The South more than any section has stood foursquare against an all-powerful Executive. We of the South had great hopes that this administration would follow a policy of strict constructionism. And, at first glance, the omens were good. The Court appointments suggested by the President, such as Judge Clement Haynsworth, were well-advised and in the tradition of strict constructionism. I fought by the President's side, hoping that at long last we had a Chief Executive who sympathized with our beliefs. But where is this strict construction when it comes to making war and to consulting with the Congress?

When it comes to his judicial appointments, President Nixon wraps himself in the cloak of strict constructionism, which is good. But when it comes to his duties with regard to the legislature, he dons the mantle of monarchy. No amount of Vice Presidential oratory can now hide the fact that the Constitution is in grave danger. The Nixon administration is defying not just the traditions of the southland, but also the concerns of thoughtful Americans all across this Republic. I will not be a party to it, and I do not think my fellow countrymen are about to be bamboozled either.

Let us wake up. The press goes off halfcocked and bellows "HOLLINGS Pitches Tent in Peacenik Camp." What peacenik, tell me please, has stood on the floor of this Chamber for the past 4 years, since I came to the Senate, and pleaded and begged for military victory in Vietnam? Another paper bleats "Giving Aid and Comfort to Hanoi." Well, I will tell you where I pitch my tent—in the campground of the Constitution, in the separation of powers that has protected us from Executive tyranny. And I will tell you who I give aid and comfort to—to those red-blooded Americans who have stood on the rock of the Constitution through good times and bad.

I stand with that great patriot Dwight Eisenhower, whom Richard Nixon eulogizes, but fails to heed. In March of 1954, Eisenhower said, and I quote:

> There is going to be no involvement of America in war unless it is the result of the constitutional process that is placed upon Congress to declare it. Now, let us have that clear.

That is what President Eisenhower, who was then our Commander in Chief, said.

I stand with John Foster Dulles, who nobody ever called a peacenik, when he told the French in 1954 that even a single air strike to relieve Dienbienphu could not be authorized by Eisenhower "without action by Congress because to do so was beyond the President's constitutional powers."

And I stand with a young Member of the House in 1947 who said:

> The matters which have come before us involving foreign policy generally have come before us after the deed has been done. The Congress has come in after the decision has been made by our State Department and by the executive branch.

The Congressman went on:

> The question I should like to ask is this: Does the gentleman not feel that a true bipartisan foreign policy means that it must be bipartisan in its inception and creation as well as in its execution?

The concerned young lawmaker was the Representative from California, Richard Milhous Nixon, and the question that vexed him then is more pertinent than ever. Would that he still worried about it.

The issue we are debating is not the President's sincerity nor his devotion to what he sees as the best interests of the Nation. The question goes to the very foundations of our system of government. No one doubts that Harry S. Truman acted out of noble patriotism when he moved to repel Communist aggression in Korea. No one doubts that three Presidents—Dwight D. Eisenhower, John F. Kennedy, and Lyndon B. Johnson—accelerated our involvement in Vietnam in the dedicated belief that they were serving the cause of Americanism.

Yet throughout the decade of the 1960's Presidents received one piece of bad advice after another—or at least ignored the good advice, which I think is the more accurate judgment. Unilateral policy decisions have been made in the executive branch that time has always quickly mocked. The voice of the people has not been heard. Instead, the President turned inward upon his office.

Checks and balances and separation of powers were written into the Constitution to provide against this very thing. The President must be protected from his own isolation, from being stranded on an island with his own small band of advisers and confidants. He must be shielded from the possibility of his own misjudgment.

We see here not only the Constitution or the technicality of the provision of constitutional law, but the very reason for this provision in the first place. It was never proven better than by the war in Cambodia and the war in Southeast Asia. Were it not for the Senate and the action here on the Cooper-Church amendment, the administration might have been much slower in withdrawing the troops from Cambodia. Time and time again the President has fudged on Cambodia. He has moved 100 miles inland with air power, which he said he would never do. He said South Vietnamese forces would pull out with us, but they are still there.

The best of minds and the best of intent continue to frustrate us, because over the very policy to get us out buries us deeper. When Senator STENNIS spoke last month in opposition to the Cooper-Church amendment he stated:

> That fact is that, by the action we took in Cambodia, we have not—I repeat, we have not—assumed or undertaken any new national commitment whatsoever. We have not committed ourselves to military support for the Cambodian government. Nor have we promised shipments of American arms or committed ourselves to send military advisers. I continue to oppose all of these steps.

Yet here, as we close the debate, we find that on behalf of the Commander in Chief, the chairman of the Armed Services Committee meets himself coming around the corner. There is a new commitment—not official—but certain it is a moral one in that we have dragged Cambodia into a hot war that she was not prepared to fight. As we declared against military support, the fact is at this very moment the morning news headlines military support for Cambodia. Our pilots fly in their defense and we state no promise of American arms, yet $7.9 million in American arms are committed. As we say no military advisers are committed for, a military mission of 17 has opened up in Phnompenh and military advisers remain on with the South Vietnam forces. So the need for the Constitution, as well as its wisdom at this hour, is manifest.

Were it not for the action in this debate

we would be far more involved in Southeast Asia, particularly Cambodia, than ever before. That is the reason for this constitutional provision.

The founders of this country provided a whole series of brilliant mechanisms to protect the President from the pitfalls of such misjudgment. They did so not for technical, legalistic reasons, not to insure that one group of politicians could hold sway over another. They did so in order that our policy would always be an American policy—arrived at not just by the President, but by the people, their representatives and the Chief Executive. And, unless we get back on that track, and get back on it soon, our continuation as a constitutional democracy is imperiled.

I will cast my vote in favor of the Cooper-Church amendment. It is the policy agreed on by President and Congress last December. I do so partly on policy grounds—to pull back from an unwise widening of the war, an escalation that can only delay our disengagement from Southeast Asia.

No matter how many television talks the President makes, no matter how many hand-picked commissions he sends to Cambodia to obscure the issue, President Nixon has erred. The issue is not military strategy, the issue is the Constitution. The Constitution is alive and living here in America. The stark tragedy of it all is that the Constitution could have saved him and spared us. So, I vote also on constitutional grounds—to insure the separation of powers and to discharge my oath to defend and uphold the instrument of our Government.

And I do so for one other reason, Mr. President—to build back into this great Nation of ours a sense of trust, of credibility in the words and actions of our Government. I believe very strongly that the lack of this trust is at the root of many of the disturbances that trouble our land. People just don't feel themselves a part of government any more. And when it comes to the foremost concern of us all—the war in Vietnam—they feel that the Congress is not a part of government anymore, that somehow war is just a one-man game. I am not just talking about the young. I am talking about young and old, northerner and southerner, easterner and westerner. There is no generation gap here—there is a credibility gap and before America can go forward, that gap must be closed. With 331,000 casualties, no one man should want to bear the burden of decision. Instead of opposing, the President should be pleading for the support of the Congress. And instead of avoiding its constitutional burden, the Congress should begin to bear it.

Today, Mr. President, we are mired down in the mud and muck of the jungle as never before. Our foreign policy is exhausted and our domestic institutions are in grave danger. It does not concern only a faroff war, it threatens the very fabric of our national life. Twist the Constitution a little bit here, wrench it a little there, and before long all the safeguards which have served us so well will perish. While trying to gain independence 10,000 miles away, we will have abandoned it here at home.

EXHIBIT 1

PRESIDENT'S MESSAGE TO CONGRESS, AUGUST 5

To the Congress of the United States:

Last night I announced to the American people that the North Vietnamese regime had conducted further deliberate attacks against U.S. naval vessels operating in international waters, and that I had therefore directed air action against gunboats and supporting facilities used in these hostile operations. This air action has now been carried out with substantial damage to the boats and facilities. Two U.S. aircraft were lost in the action.

After consultation with the leaders of both parties in the Congress, I further announced a decision to ask the Congress for a resolution expressing the unity and determination of the United States in supporting freedom and in protecting peace in southeast Asia.

These latest actions of the North Vietnamese regime have given a new and grave turn to the already serious situation in southeast Asia. Our commitments in that area are well known to the Congress. They were first made in 1954 by President Eisenhower. They were further defined in the Southeast Asia Collective Defense Treaty approved by the Senate in February 1955.

This treaty with its accompanying protocol obligates the United States and other members to act in accordance with their constitutional processes to meet Communist aggression against any of the parties or protocol states.

Our policy in southeast Asia has been consistent and unchanged since 1954. I summarized it on June 2 in four simple propositions:

1. *America keeps her word.* Here as elsewhere, we must and shall honor our commitments.

2. *The issue is the future of southeast Asia as a whole.* A threat to any nation in that region is a threat to all, and a threat to us.

3. *Our purpose is peace.* We have no military, political, or territorial ambitions in the area.

4. *This is not just a jungle war, but a struggle for freedom on every front of human activity.* Our military and economic assistance to South Vietnam and Laos in particular has the purpose of helping these countries to repel aggression and strengthen their independence.

The threat to the free nations of southeast Asia has long been clear. The North Vietnamese regime has constantly sought to take over South Vietnam and Laos. This Communist regime has violated the Geneva accords for Vietnam. It has systematically conducted a campaign of subversion, which includes the direction, training, and supply of personnel and arms for the conduct of guerrilla warfare in South Vietnamese territory. In Laos, the North Vietnamese regime has maintained military forces, used Laotian territory for infiltration into South Vietnam, and most recently carried out combat operations—all in direct violation of the Geneva agreements of 1962.

In recent months, the actions of the North Vietnamese regime have become steadily more threatening. In May, following new acts of Communist aggression in Laos, the United States undertook reconnaissance flights over Laotian territory, at the request of the Government of Laos. These flights had the essential mission of determining the situation in territory where Communist forces were preventing inspection by the International Control Commission. When the Communists attacked these aircraft, I responded by furnishing escort fighters with instructions to fire when fired upon. Thus, these latest North Vietnamese attacks on our naval vessels are not the first direct attack on armed forces of the United States.

As President of the United States I have concluded that I should now ask the Congress, on its part, to join in affirming the national determination that all such attacks will be met, and that the United States will continue in its basic policy of assisting the free nations of the area to defend their freedom.

As I have repeatedly made clear, the United States intends no rashness, and seeks no wider war. We must make it clear to all that the United States is united in its determination to bring about the end of Communist subversion and aggression in the area. We seek the full and effective restoration of the international agreements signed in Geneva in 1954, with respect to South Vietnam, and again in Geneva in 1962, with respect to Laos.

I recommend a resolution expressing the support of the Congress for all necessary action to protect our Armed Forces and to assist nations covered by the SEATO Treaty. At the same time, I assure the Congress that we shall continue readily to explore any avenues of political solution that will effectively guarantee the removal of Communist subversion and the preservation of the independence of the nations of the area.

The resolution could well be based upon similar resolutions enacted by the Congress in the past—to meet the threat to Formosa in 1955, to meet the threat to the Middle East in 1957, and to meet the threat in Cuba in 1962. It could state in the simplest terms the resolve and support of the Congress for action to deal appropriately with attacks against our Armed Forces and to defend freedom and preserve peace in southeast Asia in accordance with the obligations of the United States under the Southeast Asia Treaty. I urge the Congress to enact such a resolution promptly and thus to give convincing evidence to the aggressive Communist nations, and to the world as a whole, that our policy in southeast Asia will be carried forward—and that the peace and security of the area will be preserved.

The events of this week would in any event have made the passage of a congressional resolution essential. But there is an additional reason for doing so at a time when we are entering on 3 months of political campaigning. Hostile nations must understand that in such a period the United States will continue to protect its national interests, and that in these matters there is no division among us.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *August 5, 1964.*

PRESIDENT SIGNS CONGRESSIONAL RESOLUTION ON SOUTHEAST ASIA

(Remarks by President Johnson)

My fellow Americans, 1 week ago, half a world away, our nation was faced by the challenge of deliberate and unprovoked acts of aggression in Southeast Asia. The cause of peace clearly required that we respond with a prompt and unmistakable reply.

As Commander in Chief, the responsibility was mine—and mine alone. I gave the orders for that reply, and it has been given.

But, as President, there rested upon me still another responsibility—the responsibility of submitting our course to the representatives of the people for them to verify it or veto it. I directed that to be done last Tuesday, too.

Within 24 hours, the resolution before me now had been placed before each House of Congress. In each House, the resolution was promptly examined in committee and reported for action. In each House, there followed free and serious debate. In each House, the resolution was passed on Friday last—with a total of 502 votes in support and 2 opposed.

Thus, today, our course is clearly known in every land. There can be no mistake—no miscalculation—of where America stands or what this generation of Americans stand for.

The unanimity of the Congress reflects the unanimity of the country.

This resolution is short. It is straightforward. I hope it will be read around the world. The position of the United States is stated plainly.

To any armed attack upon our forces, we shall reply.

To any in Southeast Asia who ask for help in defending their freedom, we shall give it.

In that region, there is nothing we covet, nothing we seek—no territory, no military position, no political ambition. Our one desire—our one determination—is that the people of Southeast Asia be left in peace to work out their own destinies in their own way.

This resolution stands squarely within the four courners of the Constitution of the United States It is clearly consistent with the principles and purposes of the Charter of the United Nations.

This is another new page in the oustanding record of accomplishment the 88th Congress is writing.

Americans of all parties and philosophies can be justly proud and justly grateful: proud that democracy has once again demonstrated its capacity to act swiftly and decisively against aggressors; grateful that there is in our National Government understanding, accord, and unity between the executive and the legislative branches—without regard to partisanship. This is a great strength that we must preserve.

This resolution confirms and reinforces powers of the Presidency. I pledge to all Americans to use those powers with all the wisdom and judgment God grants to me.

It is everlastingly right that we should be resolute in reply to aggression and steadfast in support of our friends.

But it is everlastingly necessary that our actions should be careful and measured. We are the most powerful of all nations—we must strive also to be the most responsible of nations.

So, in this spirit, and with this pledge, I now sign this resolution.

EXHIBIT 2

[From the Charleston (S.C.) News & Courier, June 29, 1970]

WAR POWERS DEBATE BEGAN WITH FOUNDING FATHERS

(EDITOR'S NOTE.—The Senate's vote Tuesday on the question of who has the power to wage war is but another step in a debate that began with the Founding Fathers 183 years ago. The following article traces the development of the issue during the history of this nation.)

(By Don McLeod)

WASHINGTON.—The framers of the Constitution intended that Congress would decide when this country should go to war. The president's war powers were to be those of a super general or admiral.

The Founding Fathers were as concerned over where the war powers should lie as the senators now debating the subject of constitutional authority.

They haggled over the difference between "making" war and "declaring" war, feared a powerful executive who might start war on his own, and reached a compromise that served for a century before being eroded by aggressive presidents.

When the subject came up at the Constitutional Convention in Philadelphia, Pierce Butler of South Carolina suggested giving the war making authority to the president.

"He was for vesting the power in the president," noted James Madison, "who will have all the requisite qualities, and will not make war but when the nation will support it."

Elbridge Gerry of Massachusetts was shocked.

"Mr. Gerry never expected to hear in a republic a motion to empower the executive alone to declare war," Madison added to his notes.

Roger Sherman of Connecticut finally suggested the solution that prevailed: "The executive should be able to repel and not to commence war."

When the delegates were done, Congress was given sole power to "provide for the common defense . . . to declare war . . . to raise and support armies . . . to provide and maintain a navy."

"The President," says the Constitution, "shall be commander in chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States . . ."

When Thomas Jefferson, then minister to Paris, heard of the arrangement, he rejoiced that the legislative branch would "hold in leash the dogs of war." But as president, he would be among the first to stretch the rule.

As the convention progressed in the summer of 1787 Butler began to have reservations about the power being given the chief executive.

"Why might not a Cataline or a Cromwell arise in this country as well as in others?" he asked the convention.

Having overthrown the rule of a king, young America feared monarchy and was reluctant to cede to a president executive powers traditionally ascribed to kings.

Early in the convention, the delegates in Independence Hall took up a draft resolution that would have given the new chief executive the powers then held by the Continental Congress.

Charles Coatsworth Pinckney, advocate of a vigorous executive, rose to share his concern that "the executive powers of Congress might extend to peace and war, which would render the executive a monarchy, of the worst kind, to wit an elective one."

Madison agreed that the executive powers should be restricted. They should not, he said, "include the rights of war and peace. Lest "we shall have the evils of elective monarchies . . ."

"It was at first proposed to vest the sole power of making peace or war in the Senate," Butler reported to the South Carolina legislature, "but this was objected to as inimical to the genius of the republic, by destroying the necessary balance they were anxious to preserve.

"Some gentlemen were inclined to give this power to the President; but it was objected to, as throwing into his hands the influence of a monarch, having an opportunity of involving his country in a war whenever he wished to promote her destruction."

The general field of foreign relations and treaty making were included in the concern.

"The history of human conduct," Alexander Hamilton observed, "does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate, created by circumstances, as would be a president of the United States."

The convention began its solution by defining and dividing authority according to the role ascribed to the branches of government and providing overlapping controls.

The Congress, traditional voice of the people, would initiate war; the president, as chief executive, would administer it. The president, as the administrator, would handle diplomatic chores, but the treaties he negotiated would be subjected to legislative approval.

The right of one branch to question the acts of another was not only permitted, it was required. As Madison explained in the Federalist Papers, "unless these departments be so far connected and blended as to give to each a constitutional control over the others, the degree of separation which the maxim requires as essential to a free government, can never in practice, be duly maintained."

The war-making clause initially considered by the convention read that Congress would have the power "to make war." But to define the function more keenly and separate it from the executive's task, the phrase was modified on a motion by Madison and Gerry to substitute the word "declare."

It was understood that, while the legislature should make the decision, leading the war effort was definitely a job for a single strong hand, not a debating legislature.

"The direction of war implies the direction of the common strength," Hamilton declared in support of the arrangement, "and the power of directing and employing the common strength, forms an usual and essential part in the definition of the executive authority."

Hamilton's proposed constitution would have defined the president's role as "to have the direction of war when authorized or begun." Although the wording is less precise in the finished product, this was evidently the meaning the convention intended.

"It would amount to nothing more than the supreme command and direction of the military and naval forces, as first general and admiral of the confederacy," Hamilton explained.

So clear to the delegates was this picture of the president as director of war operations, or general of troops and admiral of fleets, that it caused some concern.

As the convention neared a conclusion, Madison and Butler strove to add another check to the president's power over war. They moved to authorize a concurrence of two-thirds of the Senate to make peace treaties, without the concurrence of the president.

"The President," Madison said, "would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace."

But the motion failed. Nathaniel Gorham, a Boston merchant but experienced in government as president of the Continental Congress, pointed out that "The means of carrying on the war would not be in the hands of the president but of the legislature."

Here was the clincher. Congress would hold the purse-strings, and thereby could stop any president from waging war against the will of the legislature.

Although Madison and Sherman had suggested that the power to repel sudden attacks be left to the president, this power was not specifically granted in the Constitution, which stipulates that Congress shall hold the power "to repel invasions."

However, since the convention debate indicates it was intended that the president should have this authority it has been assumed that he does. In the 20th century this has come to the right to push the nuclear button in defense—but not in offense.

"Yet after all," Butler wrote, "I am free to acknowledge that his powers are full great, and greater than I was disposed to make them.

"Nor, between us, do I believe they would have been so great had not many of the members cast their eyes toward General Washington as president; and shaped their ideas of the powers to be given to a presidency, by their opinions of his virtue."

Washington did not disappoint them. But two centuries of actual practice in war and peace have seen presidents assuming more and more of the war-making prerogative.

The drift from the carefully laid rules came over the word "declare"—an issue at the heart of the numerous lawsuits currently attacking the war in Vietnam.

The first war the new republic fought was

undeclared. For almost three years, beginning in late 1798, the United States waged a naval war with France without a formal declaration.

But Congress did authorize the actions taken against France by President John Adams, and all concerned were satisfied that the arrangement was constitutional.

Since the framers had used the word "declare" primarily to differentiate between the initiation and the administration of war, it was assumed that congressional permission was all that was required.

Still, the absence of a declaration is used today by some to challenge the legality of Vietnam war and by others to support the theory that a president can make war without Congress. Neither was considered the case at the time.

Jefferson established another precedent when he sent a fleet to the Mediterranean in 1801 to protect American shipping from Barbary pirates. It was assumed no declaration of war was needed for a defensive action. His action set a precedent that led during the 19th century to an assumption that presidents had the power to protect American lives and property overseas.

Similarly the practice of hot pursuit and the view that presidents have authority to initiate hostilities to protect U.S. troops became traditions not specifically legalized by the Constituents * * * and congresses followed the system of the Founding Fathers rather closely until the dawn of this war-filled century.

A signal of changing times came in 1900 when President William McKinley, contending that he had authority to protect American lives, sent troops into China to help crush the Boxer rebellion.

The door had been opened, and Theodore Roosevelt, who succeeded McKinley, rushed through it.

Roosevelt boasted he would "not dream" of seeking congressional permission for his Caribbean interventions. A legislature, he believed, was "not well fitted for the shaping of foreign policy."

Furthermore, said Roosevelt, he felt obliged to set precedents "which successors may follow even if they are unwilling to take the initiative themselves."

And Roosevelt's precedent, illegal or not, has been followed, right down to President Lyndon B. Johnson's armed intervention in the Dominican Republic as late as 1966.

President Woodrow Wilson asked congressional permission to use armed force to redress grievances felt by the United States over a comic opera incident between U.S. sailors and Mexican authorities at Tampico in 1914. However, hearing of a new development, Wilson rushed in his troops to seize Vera Cruz without waiting for Congress to act.

Wilson's more ardent supporters in the Senate sought something similar to the Gulf of Tonkin Resolution. It didn't pass and the occupation forces were withdrawn after a short stay. But two years later, Wilson acted on his own again, sending General John J. Pershing into Mexico after the bandit Pancho Villa.

Wilson also stretched the presidential war powers by sending American troops to Russia in 1918—after the new revolutionary government had made peace with Germany—in a futile effort at reopening the Eastern front.

When President Harry S. Truman plunged the United States into the Korean War as a "police action" he consulted congressional leaders but almost entirely on his own, without official authorization from Congress.

When President Dwight D. Eisenhower sent American soldiers to Vietnam as advisers and when President John F. Kennedy increased the numbers, they acted independently.

But when Johnson committed U.S. troops to the battle in number in 1964 under the Gulf of Tonkin Resolution, he was acting by congressional authorization just as John Adams had in 1798.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. SPONG) is recognized.

Mr. SPONG. Mr. President, I ask unanimous consent that I may yield to the majority leader without losing any of the time previously allotted to me for this morning.

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 982, 983, and 984.

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? Without objection, it is so ordered.

ROSEANNE JONES

The bill (H.R. 2047) for the relief of Roseanne Jones 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. 91-978), explaining the purposes of the measure.

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

PURPOSE

The proposed legislation would confer jurisdiction on the U.S. District Court for the Southern District of California, Southern Division, notwithstanding the limitations of section 2401 of title 28, United States Code, or any other statute of limitations, laches, or lapse of time, to hear, determine, and render judgment upon the claims of Roseanne Jones, a minor, against the United States based on injuries and disability suffered as the result of an operation performed upon her at the U.S. Naval Hospital at San Diego in 1959.

STATEMENT

In its favorable report on the proposed legislation, the House Judiciary Committee set forth the facts of the case as follows:

The Department of the Navy in its report to the committee on the bill defers to the Department of Justice and the Department of Justice indicated that it would have no objection to the bill's enactment.

Roseanne Jones, the daughter of a Navy seaman, was operated on for a tumor of the skull in the U.S. Naval Hospital, San Diego, Calif., on January 28, 1959. In March of that year an examination of the child by an ophthalmologist disclosed that she was suffering with a type of blindness. On October 30, 1964, her blindness was diagnosed as permanent.

On April 13, 1965, Roseanne Jones, through her guardian ad litem, the U.S. National Bank, filed an action against the Government under the Federal Tort Claims Act in the U.S. District Court for the Southern District of California. The complaint alleged negligence in her care and treatment at the U.S. Naval Hospital, San Diego, commencing on January 28, 1959. It further alleged that the minor plaintiff and her parents were advised by the Government medical personnel that her loss of vision would be temporary, and that the plaintiff had no reason to believe otherwise until advised of the October 1964 diagnosis.

On May 8, 1967, the litigation was dismissed on motion by the Government based upon the plaintiff's failure to prosecute their claim. The files of the Department of Justice indicate that plaintiff's counsel did not oppose the motion because, in his opinion, a review of the facts and law indicated the case was barred by the applicable statute of limitations.

The committee feels that this is an important factor in this case because it is readily apparent that the rights of the minor child may have been prejudiced by this failure to pursue the action. In this connection, the committee notes that the Department of Justice in its report to the committee stated that it is that Department's view that there is some question as to whether the claim filed as outlined above of Roseanne Jones was barred by the statute of limitations.

The Department of Justice report contains a reference to several court decisions concerning the running of the statute of limitations in situations which the Department of Justice feels are parallel to those existing in the *Roseanne Jones* case. In this connection, the Department stated:

"The statute of limitations applicable to this action provides that a tort claim against the United States is barred unless brought within 2 years from the time the claim accrues (28 U.S.C. 2401(b)). In an action based upon alleged medical malpractice it has been held that a claim accrues when plaintiff knew, or in the exercise of reasonable diligence should have known, of the acts of negligence upon which the claim is based (*Quinton* v. *United States*, 192 F. Supp. 581, rev'd 304 F. 2d 234 (C.A. 5, 1962); *Hungerford* v. *United States*, 307 F. 2d 99 (C.A. 9, 1962)). In the instant action it appears clear that the parents of the minor plaintiff were aware of all the facts and circumstances of her injuries, except their permanent nature, by 1960. This would not seem to be sufficient to toll the operation of the statute of limitations to allow filing of this action subsequent to 1962 (*Brown* v. *United States*, 353 F. 2d 578 (C.A. 9, 1965)). In the *Brown* case the court found that the parents of the minor plaintiff, more than 2 years prior to the institution of suit, were informed as to the exact nature of the disability of the minor plaintiff and its relationship to prior medical treatment. Based upon this finding the appellate court was of the view that the parents had knowledge sufficient to alert a reasonable person that there may have been negligence related to the injuries for which the complaint was subsequently made.

"An unreported opinion, filed in February of 1968, in the case of *Tracy Louise Condon* v. *United States* by Judge James M. Carter, District Court for the Southern District of California, raises some doubt as to whether the action of the present claimant was in fact barred by the statute of limitations. In the *Condon* case the court distinguished the *Brown* decision and held, in effect, that there must be actual notice of the specific acts of negligence before a claim for malpractice will accrue under the Federal Tort Claims Act. In the *Condon* case the minor plaintiff was born at North Island Naval Hospital in 1951. Due to an incompatibility in Rh factors between her mother and father she suffered erythroblastosis at birth. The court found that the Government's physicians failed to properly treat this condition, which failure resulted in permanent injuries to the child including cerebral palsy and deafness. The Government raised the issue of statute of limitations since the evidence established that the parents were aware of the child's injuries and the causal connection between those injuries and the Rh incompatibility more than 2 years prior to the filing of their action in 1962. The court refused to accept this defense, stating:

" 'The causes of Tracy's condition were very complicated. Because of the limits

medical understanding of the parents, they were unable to comprehend the nature of the negligence which brought about this condition without some expert assistance. It is clear that even though the parents knew a great deal about the Rh incompatibility, neither one had knowledge which would put them on inquiry regarding the treatment administered to Tracy after her birth.

" 'Mr. and Mrs. Condon knew of the child's disability and knew it was in some way connected with the Rh positive and negative factors of the parents. They knew Tracy was born jaundiced but previous children had been born jaundiced.

" 'Mrs. Condon was told that Tracy had brain damage but was not told of any acts of negligence. The doctor who examined Tracy for deafness in 1955 never explained the cause of such deafness.

" 'There was no notice to Mr. and Mrs. Condon of any of the acts of negligence found by the court nor would a person in Mrs. Condon's situation have reason to inquire whether these acts of negligence existed * * *.'

"Using the test of the *Condon* decision it may be argued that the parents of the minor plaintiff in this case likewise did not have sufficient knowledge of any acts of negligence so as to begin the running of the statute of limitations prior to 1964."

After outlining the law and commenting as quoted above, the Department of Justice stated that while it is generally opposed to legislative waiving statute of limitations on policy grounds in the absence of extenuating circumstances, the facts of this case are such that it may be a situation in which a legislative waiver of the statute of limitations would be warranted. The committee has carefully reviewed the facts of the case and the law as outlined by the Department and has concluded that in fact this is a case in which such a waiver should be granted. Accordingly it is recommended that the bill be considered favorably.

The committee, after a review of the foregoing, concurs in the action taken by the House of Representatives and recommends favorable consideration of H.R. 2047, without amendment.

PEDRO IRIZARRY GUIDO

The bill (H.R. 5000) for the relief of Pedro Irizarry Guido 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. 91–979), explaining the purposes of the measure.

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

PURPOSE

The purpose of the proposed legislation is to pay Pedro Irizarry Guido, of San Juan, P.R., $3,581.05 in full settlement of his claims for additional compensation for overtime and nightwork from July 10, 1946, to March 24, 1952.

STATEMENT

The facts of the case as contained in House Report No. 91–442 are as follows:

The Department of the Army in its report to the committee on a similar bill in the 89th Congress outlined the facts of the case as disclosed by its investigation, and stated that it deferred to the views of Congress as to whether relief should be extended to the individual in this case. The Comptroller General did not recommend favorable action. The bill was the subject of a subcommittee hearing on March 31, 1966. At that time, the sponsor of the bill, the Honorable Santiago Polanco-Abreu, Resident Commissioner of Puerto Rico, appeared before the committee to testify in support of the bill. At the same hearing, Thomas G. Watkins, representing the American Federation of Government Employees, also appeared to testify in support of the bill.

The information submitted to the committee established that Mr. Pedro Irizarry Guido has been employed as a civilian employee by the Department of the Army since February 1946, at Fort Buchanan, P.R. In the period from July 10, 1946, through March 24, 1952, which is the time relevant to the claim embodied in this bill, he was employed by the Quartermaster Supply Office of that installation and was specifically assigned the duty of "night duty checker" or "clerk on night duty." This position required Mr. Guido to serve as a "watchman-caretaker" for the protection of the quartermaster property and performance of other miscellaneous duties of approximately the same level of difficulty. These included receiving emergency shipments after regular office hours, answering the telephone, and taking care of all routine actions. He performed these duties between 4 p.m. and midnight daily except Saturdays, Sundays, and holidays. His position also required him to remain on the installation available for duty until 7:30 a.m. and to accompany an engineer refrigeration checker to unlock two cold storage warehouses at 3 a.m. and 6 a.m. daily. Sleeping quarters were provided for him at the installation and provision was made for eating and sleeping during the tour. Mr. Guido's specific duties and the nature of his position as night checker remained constant from the time he accepted the job to March 24, 1952.

Mr. Guido first filed a claim for his nightwork on July 4, 1955. On February 18, 1957, the Comptroller General disallowed the claim on the grounds that available records do not substantiate the overtime and nightwork claimed. The committee feels that the fact that the claim was filed within the time required for payment shows that Mr. Guido was diligent in his attempts to exhaust administrative remedies available to him, and further that he acted promptly to protect his rights in this case.

Army records show that from July 10, 1946, to March 24, 1952, Mr. Guido received a fixed annual salary for the job of night checker. These records also show that for administrative purposes his salary was for a 5-day, 40-hour workweek plus overtime, if any. In addition he received a night differential allowance for his regularly assigned night duty hours. Mr. Guido's individual earnings records during the 5 years in question disclose that occasionally he performed overtime services, other than his duties in unlocking the warehouse doors, and that he received payment for these services in small and varying amounts. As pertinent time and attendance records have been destroyed according to routine records management procedures, it is impossible to identify what specific hours of overtime were reported as worked or the nature of the work performed.

The situation as reflected both in the Department of the Army report and the Comptroller General report is that the exact records concerning Mr. Guido's extra duties are not available. The Army does observe that this duty entailed approximately 1½ hours every night and that further the performance of these duties occurred at times which prevented uninterrupted sleep. The Army stated that Mr. Guido performed all duties in this period in a knowledgeable, faithful, and commendable manner. Further, the committee observes that the Army report states that available records suggest that Mr. Guido was paid no compensation for this particular duty. Based upon the number of workdays in each pay period less an estimated period of leave, the Army determined that an award of $3,581.05 would be an appropriate amount to compensate Mr. Guido for the time spent in performing his additional duties. This amount would represent overtime and night differential pay for the time estimated by the Army that Mr. Guido would have performed these duties.

A consideration of all the facts and circumstances of this case has led the committee to conclude that this claim should be favorably considered. The bill provides for a payment of $3,581.05. The formula followed by the Army in arriving at this amount appears to be the best solution of the matter which can be obtained in the light of all the circumstances. Accordingly, it is recommended that the bill be considered favorably.

In agreement with the views of the House, the committee recommends the bill favorably.

ARTHUR JEROME OLINGER AND GEORGE HENRY OLINGER

The Senate proceeded to consider the bill (S. 703) for the relief of Arthur Jerome Olinger, a minor, by his next friend, his father, George Henry Olinger, and George Henry Olinger, individually, which had been reported from the Committee on the Judiciary with an amendment on page 2, at the beginning of line 1, strike out "three" and insert "four"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any statute of limitations, bars of laches, or lapse of time, or that the claims herein arose in a foreign country, jurisdiction is hereby conferred upon the United States District Court for the District of Hawaii to hear, determine, and render judgment upon the claims of Arthur Jerome Olinger and his father, George Henry Olinger, for compensation for a fractured skull and other injuries sustained by the said Arthur Jerome Olinger at the age of four, such injuries having occurred as a result of a fall from the third floor of Government quarters, owned and controlled by the United States, known as Feebren Strasse II, Warner Barracks, in Bamberg, Germany, on September 22, 1962.

SEC. 2. Suit upon any such claims may be instituted at any time within one year after the date of the enactment of this Act. Proceedings for the determination of such claims and review thereof, and payment of any judgment thereon, shall be in accordance with the provisions of law applicable to cases over which the court has jurisdiction under section 1346(b) of title 28 of the United States Code. The application of section 2680 (k) of title 28 of the United States Code to the claims herein is waived. Nothing in this Act shall be construed as an inference of liability on the part of the United States.

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. 91–980), explaining the purposes of the measure.

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

PURPOSE

The purpose of the bill, as amended, is that, notwithstanding any statute of limitations, bars of laches, or lapse of time, or that the claims herein arose in a foreign country, jurisdiction is hereby conferred upon the U.S. District Court for the District of Hawaii to hear, determine, and render judgment upon the claims of Arthur Jerome Olinger and his

father, George Henry Olinger, for compensation for a fractured skull and other injuries sustained by the said Arthur Jerome Olinger at the age of four, such injuries having occurred as a result of a fall from the third floor of Government quarters, owned and controlled by the United States, known as Feevren Strasse II, Warner Barracks, Bamberg, Germany, on September 29, 1962.

STATEMENT

This bill (S. 703) in the 91st Congress is similar to S. 1803 in the 89th Congress and S. 155 in the 90th Congress. Both previous bills were passed by the Senate but no action was taken by the House of Representatives.

The facts of the case as found in the Army report of January 11, 1966, and quoted in the reports of this committee on the two previous bills, are as follows:

"On September 29, 1962, at approximately 11:15 a.m., Army Sergeant George Olinger's 4-year-old son, Arthur, fell from his third floor bedroom window in Government quarters at Bamberg, Germany. Mrs. Olinger informed an investigator that she had left her son in his bedroom to pick up some paper. She was in the living room combing her hair when she heard a scream. She ran into the bedroom and saw that the window was open and the screen had fallen out. When asked how her son was able to get up to the window, she answered that she had a coffee table setting by the window and her son must have climbed upon the table and opened the window. Mrs. Olinger explained why the post engineer had not installed bars over the bedroom window as follows:

"'About 3 months ago I called the engineers and made a request for them to do it because the screen had fallen out on other occasions. They told me that they couldn't do anything unless I came down and signed some papers for the work order. My husband is always in the field and has very little time to go down and with four children it is hard for me to go down to their office.'

"As a result of the fall Arthur Olinger suffered a skull fracture. After being taken to the 188th General Dispensary in Bamberg, Germany, he was evacuated by air, first to the 10th Field Hospital, Wurtzburg, Germany, then to the Landstuhl Medical Center. The child was treated at the Landstuhl Medical Center from September 29, 1962, to October 6, 1962. The clinical record of Arthur Olinger shows his medical treatment as follows:

"'The patient was admitted September 29, 1962, at 1630 hours. Shortly thereafter the patient was taken to the operating room where debridement of the skin, right frontal, with removal of loose depressed bone fragment and repair of tear in the wall of sagittal sinus was done. Approximately 30 cc's of brain was debrided. Postoperatively the patient did well and by October 5, 1962, was awake, and alert and eating well. He was up and about the ward and the wound looked good. On October 6, 1962, the sutures were removed and the wound found to be well healed.'

"Congress has provided for an orderly system to compensate individuals for personal injuries caused by one of the Armed Forces. Persons injured in the United States or its territories may file suit under the Federal Tort Claims Act (28 U.S.C. 1346, 2671–2680 (1964)) or seek administrative redress through the appropriate military department under the Federal Tort Claims Act, the Military Claims Act, infra, and other laws. Claimants injured in a foreign country by one of the Armed Forces have no judicial remedy in U.S. courts but may seek administrative relief under the Military Claims Act (10 U.S.C. 2733 (1964)) or under other laws not pertinent to the present case. The Olingers had 2 years from the date the claim accrued to file a claim against the United States cognizable under the Military Claims Act, supra. Such claims may be administratively settled for an amount not to exceed $5,000 and any amount in excess of $5,000 deemed meritorious is reported to Congress for its consideration. The Olingers have not presented a claim to the Army under this statute and are now barred from doing so by the statute of limitations. The purpose of the bill is to waive any statute of limitations and to permit a cause of action in a U.S. district court for a tort claim expressly barred from judicial consideration under the provisions of the Federal Tort Claims Act as it arose in a foreign country (28 U.S. 2680(k) (1964). Enactment of the proposed legislation would therefore interfere with the systematic procedures provided by Congress for administrative and judicial consideration of such claims against the United States. It could result in the introduction of numerous similar bills. Even if the Olingers were allowed to institute suit in a district court by enactment of the bill, recovery would be improbable as the Government is in no way responsible for the injuries suffered by Arthur Olinger. At the time of his injuries window guards were installed on the windows of children's bedrooms in Government housing at the Bamberg post only upon written request by either sponsors or dependent wives. Although the post engineers informed Mrs. Olinger 3 months before the incident that window guards could not be installed without a written request, a search of the records at the Bamberg Subdistrict Engineer Office disclosed that the Olingers failed to submit a written request for the installation of window guards."

It is the opinion of the committee that the rights of a minor child should not be extinguished because of a mere inadvertence of the mother. In disagreement with the Army on this point, the committee adheres to its position and recommends favorable enactment of S. 703, as amended.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that at the conclusion of the remarks by the distinguished Senator from Virginia (Mr. SPONG) there be a period for the transaction of routine morning business, with a time limitation on statements of 3 minutes attached thereto.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia is recognized for 20 minutes.

SUPPORT FOR CHURCH-COOPER AMENDMENT

Mr. SPONG. Mr. President, in early July of last year I wrote a newsletter to my constituents in Virginia concerning developments and alternatives in South Vietnam. I ask unanimous consent that that article be made a part of the RECORD, preceding my remarks to the Senate this morning.

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

VIETNAM, 1969—PAINFUL ALTERNATIVES

(By U.S. Senator WILLIAM B. SPONG, JR.)

Developments of the past few weeks concerning Vietnam, beginning with the meeting at Midway Island, have placed in dramatic focus the dilemma faced by President Nixon if the peace talks in Paris continue to be unproductive.

On June 8th, following his conference with President Thieu at Midway, President Nixon announced the withdrawal of 25 thousand troops from Vietnam. This would not, in my judgment, weaken our military position and could provide an opportunity to test the capacity of the South Vietnamese to undertake a larger measure of responsibility for their own defense.

CLIFFORD ARTICLE CITED

In the July edition of *Foreign Affairs*, former Secretary of Defense Clark Clifford, in a scholarly review of his long involvement with Vietnam, advocated the withdrawal of 250 thousand combat troops in the next 18 months, leaving only air and supply forces.

President Nixon questioned about the Clifford proposal at his press conference of June 19th, stated that he "hoped" to do better. The President's hope was qualified by his statement that withdrawal would depend upon the extent of training of the South Vietnamese as well as developments in Paris and other factors.

Whatever gamble President Nixon chooses to take with regard to South Vietnam, having begun the troop withdrawal and having expressed the "hope" to exceed Mr. Clifford's suggestion, he must recognize how difficult it will be to reverse direction, regardless of what takes place in Paris.

In reviewing the Clifford chronology of our involvement, one can only marvel at the performance of thousands of American soldiers who have fought superbly in the face of divisiveness at home over the war and under tactical constraints imposed by the dictates of our foreign policy.

The Clifford article is significant for a number of reasons.

CONDITIONS VIOLATED

First, it states that conditions attached to the bombing halt were Hanoi's agreement that there would be no indiscriminate shelling of major cities in the South and no violation of the demilitarized zone which would place our troops in jeopardy. If these conditions did exist as part of the consideration for the bombing halt, they have been violated by Hanoi.

Second is the Clifford view that a decision to turn over progressively the combat burden to the armed forces of South Vietnam would confront the North Vietnamese leaders with a painful dilemma—that Hanoi has long feared "the possibility that those whom they characterize as "puppet forces" may, with continued and gradually reduced American support, prove able to stand off the communist forces."

SOUTH'S CAPABILITIES QUESTIONED

This could be so, but I do not share the view that the South Vietnamese, even with another year's training, will be capable of halting, even with air support, an all-out assault upon the South. I hope this judgment is in error. The Communists will probably soon launch a summer offensive. This will provide another opportunity to evaluate the ability and will of the South Vietnamese soldier.

Neither the Clifford suggestion nor President Nixon's expressed hope to improve upon it can strengthen our hands in the Paris negotiations or in any secret talks which may be taking place. Any leverage which existed by the announced withdrawal of the 25 thousand troops may have been lost. What incentive is there for reciprocal withdrawal by the North or serious negotiations, if Hanoi senses increasing sentiment for massive withdrawal here at home? We are faced with painful alternatives:

THREE ALTERNATIVES SEEN

First, if the talks in Paris or elsewhere continue to be unproductive, we can step up the military effort in the hope that this will

influence Hanoi to negotiate for peace, but this has failed before and would raise the already high casualty levels.

Secondly, we can continue as at present in the hope that something will happen in Paris, although this seems most unlikely in view of Hanoi's present posture and their obvious belief that time is on their side.

Thirdly, we can proceed with withdrawal, regardless of what happens in Paris, and gamble that former Secretary Clifford is correct in his opinion concerning the political problems this would present to Hanoi and in his appraisal of the capacity of South Vietnam to defend itself.

It is unfortunate that an assessment of our position at this time must lead to such pessimistic conclusions about the options now open to us. But realism in viewing this war—which seems to become increasingly insoluble—is necessary if we are to prepare ourselves for what is likely to be a bitter eventuality, regardless of the alternative we follow.

Mr. SPONG. Mr. President, I have always found it difficult to discuss our involvement in Southeast Asia, partially, of course, because of the complexities of the situation, but also because of the connotations and the rhetoric.

When one discusses Southeast Asia today, it is easy to be political. No issue in recent politics has divided our people more. No issue has caused a more bitter polarization. No issue has aroused more angry voices.

It is also easy to be dramatic. The lives of our youth, the dreams of our people can easily be translated into drama, as can anticommunism, the flag and the ideal of democracy. And drama is the style of contemporary politics.

When one discusses Southeast Asia today, it is easy to be moral—to speak of rights and wrongs as if each side could be measured in absolute terms of good and evil, of justice and injustice. And, that is the simple way to view the world.

These past weeks I have tried to review the situation in Southeast Asia and to avoid the pitfalls mentioned above. I appreciate the difficulty of the decision which the President announced on April 30 and the burden of being Commander in Chief of the U.S. armed services at this time in our history.

I know of the tremendous sacrifices which so many of our young men have made in Southeast Asia. I have often marveled that they have performed so well in the face of divisiveness at home and under the tactical constraints imposed by our foreign policy objectives.

In reviewing the situation in Southeast Asia, however, I could only conclude that regardless of any temporary military benefit that may have been gained, the President made the wrong decision in sending U.S. ground forces into Cambodia.

While I share the natural instinct to support the President as Commander in Chief, I believe I have a duty and a responsibility to speak to my constituency about the situation as I have analyzed it and to discuss what I believe are the future implications of the policies we are undertaking today.

When I became a U.S. Senator in 1967, it was U.S. policy to apply intermittent military pressure on the enemy to convince him that a continuation of the war was unacceptable in his own interests. That policy was discredited by the Tet offensive, and afterward we began to discuss more openly and publicly the concepts of a limited war. This led to a halt of the bombing in North Vietnam and after the change of administrations, to the policy of Vietnamization. It also, I believe, signaled to the world that the United States sought no military victory in Vietnam, only a negotiated settlement.

Whatever our policy has been, however, two important aspects of the situation have consistently been demonstrated. First, every U.S. military move has produced a countermove by the North Vietnamese and the Vietcong. They are in the war to win and I do not believe that they will be willing to let the United States and South Vietnamese act in Cambodia to put them at a disadvantage without reacting. Furthermore, they have optional moves—in Laos, in other parts of Cambodia and Vietnam and even in certain sections of Thailand—and these countermoves can only increase the level of combat and violence.

It is, I think, clear to any student of the area that the potential for an Indochina war has always been present. The Vietnam problem is—and has been—part of a larger Indochina problem. We were only fortunate in the past that the conflict was confined to South Vietnam where the symptoms were, while the illness was more broad spread. What I fear we have done is to move beyond the symptoms which we might have arrested to fight an illness which we cannot cure.

And, all of this brings me to my second point: The North Vietnamese and the Vietcong. I think we can count on the North Vietnamese and the Vietcong for little. If former Secretary of Defense Clark Clifford's article in Foreign Affairs is to be accepted, there was an understanding that there would be no indiscriminate shelling of South Vietnamese cities in return for the bombing halt. The understanding did not hold. That, together with almost 2 barren years in Paris, makes settlement with the enemy improbable.

These two points—U.S. moves producing countermoves and the failure of the North Vietnamese and Vietcong to abide by understandings—left our Nation no alternative but to plot its own course. For some months we appeared to be doing just that—not as rapidly as many persons wished, but we did appear to be moving.

In general, I supported the President during this period, realizing the tremendous task of reducing a U.S. commitment in Southeast Asia without exposing our servicemen to additional dangers, without abandoning the South Vietnamese who had fled the North and who had fought against the North Vietnamese and Vietcong, without encouraging aggression elsewhere in Asia and without raising undue questions among our European allies about our commitments in Europe and our willingness to stand by them. These are problems which I believe a powerful Nation which has engaged itself in many parts of the world during a 20-year period must face carefully, reasonably and responsibly, and, the United States was—and is—on the line as far as answers to these questions are concerned.

With the move into Cambodia, however, we could, I am afraid, be carried upon another course—a course where more so than before we shall have to react to events in Southeast Asia over which we have little or no control.

The conflict in Southeast Asia, with all the potential and submerged problems of Indochina, has been enlarged. And, in view of the two points which I have discussed, I believe that enlargement is a move unlikely to produce long-range benefits, regardless of temporary military success. I am afraid it could assure a substantial American military presence in Southeast Asia for many years to come.

The gradual disengagement outlined by President Nixon is, in large measure, dependent upon the troops of ARVN—Army of the Republic of Vietnam—attaining a capability of defending themselves once our troops have departed. I have long harbored doubts about the ability of South Vietnamese soldiers to take over successfully the present defense structure, but over this past year have been impressed by their improved performance. Nevertheless, the original logistics of Vietnamization and our disengagement hardly contemplated the spreading of the war into all of Indochina and the participation of ARVN forces in Cambodia. I find it difficult to understand how involvement of these troops in a wider struggle can hasten departure of U.S. forces.

Ultimately, the polarization and divisiveness here at home, the possibility of a change in Sino-Soviet relations, the reaction among our allies as well as our enemies, the effects upon our diplomatic initiatives in other parts of the world will all be weighed against the military materials captured in the Cambodian bunkers, the time gained by cleaning out the sanctuaries and the value of demonstrating our toughness to Hanoi, Peking, and Moscow. In the long run, the final judgment on the Cambodian move and its results belongs to history.

Of more immediate concern, however, is the policy to be forged in the wake of the Cambodian move which has already been made and the role of the legislative branch of the Government.

The question of congressional prerogatives in the area of foreign affairs and war is not a new one. It goes back to the framing of the Constitution. Its more modern manifestations date from the lend-lease program of 1941. It is, I believe, regrettable that it has taken a crisis to bring the question into the spotlight and demand action upon it. But the failure to resolve the question previously has done just that.

It is policy—future policy concerning Cambodia—with which the Senate should now concern itself. The Senate, regardless of the dim prospects for agreement with the House, should express itself and attempt to participate in the formulation of our future policy in Cambodia. The Cooper-Church amendment seeks to do this. It might be viewed as an attempt to redefine the theater of

the war, not to determine how to conduct the war within an authorized theater. I believe a majority of the Senate wishes to join an expression against the use of U.S. forces in Cambodia in support of Cambodian troops or in support of any Cambodian Government. I know a majority of the Senate share my fear of a widening land war in Asia involving U.S. troops. What I believe the Senate should do is state a clear caveat against this in a manner that does not impinge upon the President's powers as Commander in Chief, and is consistent with its own constitutional prerogatives, including the appropriation of funds.

Certainly I do not want to endanger further a single U.S. serviceman who is in Southeast Asia nor do I wish to be party to anything that could delay the announced disengagement of our troops from South Vietnam. On the other hand, I do not believe the Senate wishes to grant broader powers in Cambodia to the President as Commander in Chief without his having to consult with Congress prior to entering a new theater of war.

These considerations led me to positions taken during this rather prolonged debate. My position on the first amendment offered by Senator ROBERT BYRD of West Virginia has been outlined in previous floor debate. As a cosponsor of the second amendment offered by Senator BYRD, I view that language and its addition to the Mansfield amendment as an expression of the Senate's recognition of the President's authority and duty to protect U.S. forces in the field. The scope of that authority was well defined by Senator COOPER on June 22 when he stated:

> After Byrd amendment No. 1 was defeated on June 11, several supporters of the Byrd amendment and of the Cooper-Church amendment expressed a desire to see included in the Cooper-Church amendment language recognizing the constitutional authority of the President as Commander in Chief to protect the Armed Forces. . . . I believe all agreed that it is difficult to specifically define these powers, for much depends upon the circumstances under which they would be determined. Nevertheless, the discussion pointed out that the powers are essentially defensive—to repel attack, sudden and impending—to retaliate, to employ hot pursuit, and take other emergency action. . . .

I agree with that interpretation.

These are the Presidential authorities I had in mind in the amendment I offered on June 10 which reads as follows:

> Except that the foregoing provisions of this clause shall not prevent the President from taking action along the Cambodian border with South Vietnam to forestall enemy attacks once they are in progress, and to engage enemy forces fleeing from South Vietnam into that area of Cambodia, if the President as Commander in Chief concludes that such action is essential to the protection of United States troops in South Vietnam and to their withdrawal from that country.

This amendment was withdrawn in view of the adoption of the second Byrd amendment.

No new authority has been given to the President as Commander in Chief. Any doubts, however, which may have been raised by the debate and rejection of the first Byrd amendment concerning authority of the President to protect our forces in South Vietnam should have been erased.

Some Presidential authority may, however, have been taken away in other Senate action. There are different views regarding the effect of the Senate's overwhelming vote, in which I joined, to repeal the Tonkin Gulf resolution. My own view is that repeal, if concurred in by the House, might remove the only legal basis the President has, without further congressional authority, for sending ground forces into areas of Cambodia beyond the sanctuaries which have long been recognized as part of the existing theater of war. In the absence of repeal of the Tonkin Gulf resolution by the Senate, adoption of the Cooper-Church amendment might be regarded as a geographic limitation, through the appropriations process, on the authority granted the President by the resolution to use our Armed Forces in Southeast Asia.

Enactment of the Cooper-Church amendment would prohibit the President from initiating action in Cambodia to widen the war or in support of a specific Cambodian Government without further consultation with Congress.

Many believe that repeal of the Tonkin Gulf resolution would leave us in a constitutional quandary—a vacuum that must be filled by further congressional expression with regard to future policy in Indochina. If it is the will of the Senate to erase the authority given by the Tonkin resolution, then it is the responsibility of the Senate to share with the President the burden of the course of action to be followed in the future.

Undoubtedly, having accelerated our military effort with the Cambodian incursions, we shall now determine if the enemy has been damaged enough to engage in negotiations for peace in Paris or elsewhere. While I believe we must make this effort, and send new representatives to Paris, I am not sanguine about our chances for success.

I voted to table consideration of the McGovern-Hatfield amendment which would impose a timetable for our withdrawal from Southeast Asia. In its present form, I would oppose that amendment because I believe its adoption by the Senate would forestall any slim chance for a negotiated settlement that presently exists and it is too inflexible in its timetable approach. Nevertheless, I repeat my view that the Senate has a responsibility to express its own view what our future policy should be in Southeast Asia, particularly because of the action we have taken on the Tonkin Gulf resolution.

A year ago I endeavored to spell out for my constituency the painful alternatives facing us in Southeast Asia. Later, I approved President Nixon's policy of gradual disengagement while preparing the South Vietnamese to undertake their own defense. Against a history of years of tactical constraint with military victory not the objective, this seemed the best course of action available. In my view the widening of the war in Cambodia can delay our disengagement as well as the time when the South Vietnamese are prepared and available for their own defense. Accordingly, I shall support the Cooper-Church amendment, as modified.

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

Mr. SPONG. I am pleased to yield to the Senator from Montana.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senator may have 5 additional minutes.

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

Mr. MANSFIELD. Mr. President, I have listened with interest to the distinguished Senator from Virginia, who in my opinion is one of the most responsible, most reasonable, and most studious Members of this body. He does not speak very often, but when he does speak, he has something worthwhile to say and something worth listening to.

He realizes, as he has pointed out, that the President has a responsibility both as President and as Commander in Chief; but, by the same token, each of us in this body has a responsibility, and as a body we have a collective responsibility.

I was interested in the summing up by the distinguished Senator from Virginia of the various moves which have been made to date in the form of amendments, so that at the present time we are close to a point at which we can make a final decision, and we will today, on the Cooper-Church amendment, which, in my opinion, has not been decreased in effectiveness one iota, not by 1 millimeter, but at the present time stands four-square on the foundation which was laid down when it was first introduced.

The Senator from Virginia has expressed some concern about what has developed in Cambodia. I share his concern. I do not doubt that Cambodia could be classified as a military success, but the factors which worry me are the political implications and complications which may come out of it.

We find, for example, that since the venture into Cambodia, the number of North Vietnamese and Vietcong there has not decreased but has increased considerably.

We find, for example, that instead of holding the sanctuaries along the South Vietnamese border, they now hold at least a third, and possibly a half, of the country.

We find, also, that they have shifted from main line big force operations to guerrilla operations and that their presence is being felt in every provincial capital in that country.

We find, also, that the President, true to his word, has withdrawn all U.S. combat troops from Cambodia, and that by tonight all advisers in there will be withdrawn.

I happened to read in the newspaper this morning that approximately 17 military men are attached at the present time to the Embassy in Phnompenh. That is a decided increase compared with the period prior to the overthrow of Norodom Sihanouk. I express the hope, Mr. President, that these advisers or these attachés, whatever one wishes to call them, do not turn out to be advisers to the Cambodian Army; because, if that is the case, we are repeating the Vietnamese

pattern again—first advisers, then logistical support, and I believe that at the present time $7.9 million of military supplies in the form of small arms, ammunition, and the like has already been allocated to the Cambodian Government at Phnompenh. The pattern has been first advisers, then support, and then U.S. troops.

Well, the U.S. troops will be withdrawn, but the United States will not be withdrawing from Cambodia come midnight tonight, because the South Vietnamese are in there, logistically supplied by the United States; the South Vietnamese are in there with U.S. advisers, and the South Vietnamese are in there with American air support and air cover.

If the Thais go in, and I understand they have set a price on their participation in the Cambodian adventure—they have been getting $50 million a year for one division, which has done little or no fighting in Vietnam for the past 4 years—the same thing will happen: advisers, logistical support, air cover, air support.

I understand that at the present time, according to Lon Nol, we are furnishing air support to the Cambodian ground forces, and we are using Cambodian spotters in U.S. planes to pinpoint the places which should be bombed.

The point I am getting at is that, while militarily this has been a success, politically it is a Pandora's box. It is no longer a Vietnamese war; it is an Indochina war. And if the Thais become involved in Cambodia, as I assume they will—and I am fairly sure they will—it will become a Southeast Asian war. Who, then, is going to bear the responsibility? This Nation, with over 332,000 casualties to this time? This Nation, which has spent well over $100 billion in carrying on this war, in a part of the world which is not vital to our security and never was and never will be? Are we going to keep on in this fashion? Or is the President going to do as I think he is going to do and believe he is going to do—pull out another 150,000 U.S. troops by next spring and 50,000 by this October?

I do not think the President is going into Cambodia again. I think he has made his decision. I think he felt that by going in, he was gaining 6 or 8 months to allow the Vietnamese Army to be further trained and solidified, and that now he would like to see the fighting turned over to these allies of ours, who have a more vital interest in that part of the world than we do because they live there. Their future will be determined there, and they are the ones who will have to decide what their destiny will be in the years ahead.

So I say to the distinguished Senator from Virginia that, in his usual calm and reasoned way, he has laid out the picture for us to see, and it is not a pretty picture. We should not be carried away by the fact that all Americans will be withdrawn from Cambodia by tonight, but should be aware of the complications which are inherent in the situation and which should indicate to us that our withdrawal does not mean the end of the difficulties so far as Cambodia specifically is concerned and Indochina and Southeast Asia generally are concerned.

It is easy to get in, but it is awfully hard to get out of an area or a country. While we are going to be out physically, I want to repeat, Mr. President, that through air cover and air support, through logistical support of ground troops of another nation—South Vietnam, and very likely Thailand—through the use of American advisers, we will still be indirectly involved. But I hope and pray—and I think this is the way the President feels, although I cannot speak for him—that this will mark the end of the direct U.S. foray into Cambodia and that what he had hoped for in embarking on this adventure in the first place, that the war would be shortened and the rate of withdrawal speeded up, will come to pass.

I thank the distinguished Senator for giving us an excellent presentation this morning.

Mr. SPONG. Mr. President, I thank the Senator from Montana for his gracious remarks.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to morning business.

The Senator from Ohio (Mr. YOUNG) is recognized.

NIXON IS CAUGHT IN SAME SITUATION AS JOHNSON WAS IN SOUTHEAST ASIA

Mr. YOUNG of Ohio. Mr. President, one of the most notable and noteworthy news columns relating to our involvement on a huge scale in fighting a major war in Southeast Asia was written by Frank Mankiewicz and Tom Braden and published in the Washington Post and other newspapers throughout our country this morning, June 30.

This factually correct and most perceptive, most interesting, and enlightening column spells out in a simple language the horrendous blunder made by President Johnson in committing hundreds of thousands of American combat troops in a civil war in South Vietnam to maintain the militarist regime in Saigon in power. Now under President Nixon with our intrusion or invasion of Cambodia and also bombing of the entire area of Laos, our waging a major war in Southeast Asia has been escalated and expanded earning the additional hatred toward us of the peace-loving Cambodian people.

Mr. President, I ask unanimous consent to have the article printed in the RECORD.

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

NIXON IS CAUGHT IN SAME SITUATION AS JOHNSON WAS IN SOUTHEAST ASIA

(By Frank Mankiewicz and Tom Braden)

President Nixon will tell us today that we are out of Cambodia and that the operation was an enormous success. He will be wrong on both counts, but it is exactly what Lyndon Johnson would have told us, and it still remains to be seen whether this war will number another President among its casualties.

It is perhaps not fair to say that Mr. Nixon has been Johnsonized, though ever since the Cambodian operation began, he has sounded more and more like his predecessor. It would be fairer to say that both men were caught in a situation where they had to shade the truth in order to seem to be strong, and neither were strong enough to resist temptation.

It is, for example, not true that we are out of Cambodia—as Mr. Nixon promised on May 8 we would be. But last week, the Pentagon admitted that our Air Force is very much in Cambodia, each "surgical strike" on a village turning Cambodian neutrality into hatred of America.

It is also not true that our air and logistic support for the South Vietnamese will come out, as Mr. Nixon also promised on the 8th of May that it would. "That was a silly suggestion from silly people," Vice President Ky has said. He intends to stay.

But these are trivial shadings of the truth, and the President is forced into them because he dare not or cannot bring himself to admit publicly that the Thieu-Ky government, totally paid for by the American taxpayer, is not totally responsive to the American President.

More significant is the shading of the truth about a military victory in Cambodia. The President will point to the supplies we have captured, to the enemy strongholds we have overrun; he may even talk about enemy casualties though this is becoming less fashionable as more and more of his countrymen realize the truth of the soldier's plaint, "You can't tell the gooks from Charlie." And with over 300 Americans dead in Cambodia, it might be wise to wait before talking of "reducing casualties."

But surely Mr. Nixon himself a veteran of World War II, knows the other side of the story that since we went into Cambodia, the Communist actually control more of the Cambodian countryside—including as of tomorrow, the "sanctuaries" themselves—than they bothered to control before. He knows that the Cambodians whose villages we have had to burn, and whose civilians we have killed are no longer—if they ever were—allies. Mr. Nixon knows that as a result of the operation, the South Vietnamese are weaker in their own country than they were before.

Yet he will say it was a military victory, because he has to. Having done that, and doubting as he must the truth of his own words, he must now at last cross that Rubicon Lyndon Johnson never had to face.

For as his predecessor could not, Mr. Nixon may now say that we have done everything the generals have asked. Under John Kennedy, we tried massive economic aid and thousands of "advisers;" we tried "strategic hamlets" and counterinsurgency.

Under Mr. Johnson, we tried bombing of military targets and of cities. We rented Asian armies, we gave the generals half a million men for "search and destroy" missions. We "pacified," we "won the hearts and minds of the people," we wrote a constitution and installed a government, and we kept it in power.

And now, yielding again to the brass, we have invaded the Cambodian sanctuaries. Nothing has worked; communism is stronger throughout Indochina than when we began. The President's time is now running as Lyndon Johnson's time began to run in 1966. "I hope never again to take a job with an administration trying to end an unpopular war," one of the President's aides remarked ruefully the other day. Mr. Nixon does not have the same option.

Mr. YOUNG of Ohio. Mr. President, the American people should know the facts that are detailed in irrefutable fashion in this column, that President Nixon having yielded again and again to

the brass, his time is now running out just as Lyndon Johnson's time began to run out in 1966 due to his yielding to the Joint Chiefs of Staff and to the power of the military-industrial complex.

It is a fearful thing that we are now waging on a huge scale our involvement in an Indochinese war.

PRIVILEGE OF THE FLOOR—UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD of West Virginia. Mr. President, having noted during the past few days a great number of Senate interns on the floor, and having heard several Senators express concern at the congestion in the rear of the Chamber, and realizing that on today there will be at least five important and perhaps controversial votes, I have taken the occasion to clear with the majority leader and the minority assistant leader the following unanimous-consent requests:

I ask unanimous consent that throughout the day the Sergeant at Arms be instructed to exclude from the Chamber and the Senate lobby all staff personnel, with the exception of those attached to the offices of the Sergeant at Arms, the Secretary of the Senate, the Secretary to the Majority, the Secretary to the Minority, the Majority and Minority Policy Committees, one staff member for each of the whips, and one staff member to assist the manager of a bill, and the ranking minority member, and/or the author or chief sponsor of an amendment, and the Senator who is opposed thereto; also the assistant to the Secretary to the Majority and the assistant to the Secretary to the Minority.

The PRESIDING OFFICER (Mr. EAGLETON). Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ORDER OF BUSINESS

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, with the understanding that the recess not extend beyond 10:45 a.m. today.

The motion was agreed, and at 10:09 a.m., the Senate took a recess, subject to the call of the Chair.

At 10:45 a.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. EAGLETON).

PETITION AND A MEMORIAL

A petition and a memorial were laid before the Senate and referred as indicated:

By the VICE PRESIDENT:

A memorial of the Legislature of the State of Florida; to the Committee on Labor and Public Welfare:

"SENATE MEMORIAL No. 1403

"A memorial to the Congress of the United States urging the Congress to review the status of cancer research appropriations; to adjust those appropriations consistently with the significance of the cancer menace; and to provide for and accelerate a 10-year intensive national commitment to the achievement of a cure for cancer

"Whereas, the ravages of cancer are steadily increasing and taking a toll of more than 300,000 American lives each year, and

"Whereas, it is incident and necessary to the health and longevity of mankind that this dread disease be curtailed and eliminated, and

"Whereas, the 1971 Budget, which is currently before the Congress of the United States contains a request for only $202,000,000.00 for cancer research, and

"Whereas, The President's Scientific Advisory Committee and a distinguished panel of the National Academy of Sciences has stated that in order to maintain the effectiveness of cancer research programs being conducted by the National Institute of Health an appropriation in the neighborhood of $244,000,000.00 is needed for research in 1971, now, therefore

"Be It Resolved by the Legislature of the State of Florida:

"That the Congress of the United States is urged to lend its every effort to the end that a definite commitment to the conquering of cancer be made a national priority and that an adequate sum be appropriated over the next ten fiscal years for the National Cancer Research Program.

"Be it further resolved that copies of this Memorial be dispatched to the President of the United States, to the President and each member of the United States Senate, and to the Speaker and each member of the United States House of Representatives."

The petition of Francisco Cepero Allers, of Rio Piedras, Puerto Rico, praying for a redress of grievances; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES

The following reports of commitees were submitted:

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

S. 3600. A bill for the relief of Kyung Ae Oh (Rept. No. 91-993).

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

S. 3777. A bill to authorize the Secretary of the Interior to enter into contracts for the protection of public lands from fires, in advance of appropriations therefor, and to twice renew such contracts (Rept. No. 91-994).

EXECUTIVE REPORTS OF A COMMITTEE

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

By Mr. MAGNUSON, from the Committee on Commerce:

W. Donald Brewer, of Colorado, to be an Interstate Commerce Commissioner; and

Austin C. Wagner, and William A. Jenkins, for promotion to the grade of rear admiral in the Coast Guard.

BILLS INTRODUCED

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

By Mr. SCOTT:

S. 4037. A bill for the relief of Jean Ambatzis, his wife, Andriana Ambatzis, and his children, Demetrios Ambatzis, Peter Ambatzis, and Margarita Ambatzis; to the Committee on the Judiciary.

By Mr. GORE:

S. 4038. A bill to amend title II of the Social Security Act to permit widow's benefits to be payable at age 50, to permit widower's benefits to be payable at age 60, to permit wife's benefits to be payable to a disabled wife at age 50, to permit husband's benefits to be payable to a disabled husband at age 50, and for other purposes; to the Committee on Finance.

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

By Mr. BIBLE for himself and Mr. BURDICK):

S. 409. A bill to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business; to the Committee on Finance.

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

By Mr. HART:

S. 4040. A bill for the relief of Noreen Wong; to the Committee on the Judiciary.

By Mr. TOWER:

S. 4041. A bill to repeal section 7275 of the Internal Revenue Code of 1954, relating to amounts to be shown on airline tickets and advertising; to the Committee on Finance.

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

By Mr. HART:

S. 4042. A bill for the relief of Peter Joseph Curtis; to the Committee on the Judiciary.

By Mr. BYRD of West Virginia:

S. 4043. A bill for the relief of Li Lien-Shiun; to the Committee on the Judiciary.

By Mr. MAGNUSON (for himself and Mr. HART):

S. 4044. A bill to establish an independent commission to evaluate and assess developments in the fields of commerce and technology and to accumulate and disseminate data relevant thereto; to the Committee on Commerce, by unanimous consent.

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

By Mr. CRANSTON (for himself and Mr. MURPHY):

S. 4045. A bill to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the San Bernardino National Forest, Calif.; to the Committee on Agriculture and Forestry.

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

S. 4038—INTRODUCTION OF THE SOCIAL SECURITY AMENDMENTS OF 1970

Mr. GORE. Mr. President, the House of Representatives has recently passed and sent to the Senate a bill which provides far-reaching and significant changes in our social security system. Hearings have now commenced in the Finance Committee to hear administration and public witnesses on the details of this measure.

Our social security system is now reaching a level of considerable maturity as a vehicle for providing adequate

financial assistance for those who are in their retirement years. It is, therefore, important that we examine this system closely to insure that it is working with maximum effectiveness and maximum efficiency.

My comments today are intended to point out improvements that I believe should be made in H.R. 17550 by the Senate and to offer amendments in areas not covered by the bill. I hope that these comments and suggestions will serve as bases for insuring greater social justice through our social security system.

There are two substantial improvements effected by H.R. 17550. The first is an across-the-board 5-percent increase in benefits. This increase is badly needed in view of the heavy burden that inflation is imposing on those living on fixed incomes. I strongly support this provision.

Another significant improvement that I have long advocated provides for an automatic increase in social security benefits tied to the cost-of-living index. Too long our elderly and retired have been forced to continue on the same level of fixed incomes long after price increases have substantially reduced the purchasing power of their retirement benefits. H.R. 17550 substantially incorporates the bill I introduced last year to correct this situation and, in the future, the lag between price increases and increases in social security benefits will be significantly reduced.

There are, however, four areas covered by the bill as passed by the House which need improvement.

First, the bill contains no increase in the minimum monthly social security benefits. To be sure, the minimum monthly social security benefit is adjusted to reflect the general 5-percent increase. But a more substantial increase is required for those who rely on the minimum benefits to provide food, clothing, and shelter. I introduced a bill earlier this year, S. 3658, which would provide a minimum monthly social security benefit of $100 for a single person and $150 for a married couple. I believe that this measure should be included in the current bill and I will press strongly for favorable action by the Finance Committee.

Second, the House bill increases the present limitation on earned income that a social security beneficiary may receive without suffering a reduction in benefits from the present $1,680 per year to $2,000 per year. In addition, the dollar-for-dollar reduction in social security benefits is eliminated, and a general $1 for $2 formula applies to all earnings over $2,000. These are steps in the right direction, but they are not enough. It is unfair that those who rely on earned income to supplement their retirement benefits mus' suffer a reduction in their social security benefits if their earnings exceed $2,000 per year, while those who are fortunate enough to have income from investments can receive unlimited amounts of this income without suffering any reduction in their social security benefits. Thus, the person who receives $3,000 in dividends each year can still get his full social security benefits; but, if another elderly person works to earn the same $3,000, he will suffer a reduction in his social security benefits of $500. This is not fair. And it must be changed.

I believe that the reduction in social security benefits on account of the receipt of earned income should be eliminated in its entirety if no limitation is going to be imposed on income from investments. At a minimum, however, the $2,000 limitation set by the House bill must be substantially increased.

Under present law, those over 72 years of age are not subject to the earned income limitation. This age limit should be reduced to 65 to reflect the earlier ages at which people are now retiring. I will propose this improvement as the Finance Committee considers this bill.

Third, a highly undesirable feature is introduced in the House bill and should be completely eliminated. This is the increase in the taxable wage base to $9,000, coupled with an automatic increase in the taxable wage tied to increases in the cost of living in future years.

The payroll tax on employees and employers alike is already high enough, and may be too high. This proposed tax increase is going to strike directly at the middle-income taxpayer who Congress sought to help by increasing the personal exemption last year. This proposed increase to $9,000 plus the automatic cost-of-living increase that HEW contemplates for 1973, would virtually wipe out the income tax reduction so laboriously achieved last year for the middle-income wage earner. It is not fair to provide an income tax reduction on the one hand to the hard-pressed middle-income worker and on the other turn around and take it away from him by means of a social security tax increase.

It is time to shift the increases in social security benefits to our general revenues. There are many reasons in social justice to support such a step. This action would help make our total Federal tax system more progressive. The social security tax, since it is a flat tax on a set amount of income, operates to remove much of the progressivity from our overall Federal tax system. We should forthrightly recognize that a sound and healthy social security system provides economic and social benefits to all members of society—to the high-income individual as well as the low-income individual, to the self-employed as well as the worker, to the investor as well as to the employer. It is now time, in my view, to recognize this fact and to shift part of the responsibility for payment of social security benefits to our general revenue system which relies in large part on the fairest form of taxation, the progressive individual income tax.

In addition, the automatic cost-of-living increases in the taxable wage base as contained in the House bill in effect delegate congressional responsibility for determining taxes to the Department of Health, Education, and Welfare. This is an unwise step and further illustrates why the social security system should be funded through the general revenues.

A final improvement that should be made in the House bill concerns disability benefits. Under present law, to be eligible for disability benefits an individual must be fully insured and meet a test of substantial recent covered work, generally 20 quarters of coverage in the period of 40 calendar quarters preceeding disablement. The House bill improved this provision by providing that the test of recent covered work be eliminated for blind people. This is certainly a step in the right direction. However, this provision must be expanded to eliminate the test of recent covered work for all disabled persons. Cases have come to my attention where persons have been fully insured, but have been denied disability insurance benefits because it has been more than 10 years since they last worked in covered employment. These persons should be eligible for full disability benefits.

There are three areas where our social security system requires improvement that are not adequately covered under H.R. 17550. I am introducing a bill to correct these situations and I will seek to have these measures included in the bill reported out by the Finance Committee. Briefly, my bill provides:

First. That the age to qualify widows to receive social security benefits be reduced from 60 to 50. The theory under which the present age limit operates is that social security benefits should not be paid to a woman who is able to work. Setting the age limit at 60 may have been reasonable in the past, but it is no longer a realistic level. As our Nation's work force has become progressively younger, many women of age 50 have difficulty in finding employers who will give them a work opportunity, particularly those who have had no previous work experience because they have been busy maintaining a home and rearing children. We must face these facts and reduce the age limit of widows to 50.

Second. Under present rules, social security benefits are sharply reduced when a social security beneficiary remarries. This means that social security recipients who wish to marry are positively deterred from doing so because their combined social security benefits will be reduced if they take this step. What is the justice of this? I see none. Mr. President, it is unconscionable to deny the joys of the marital relationship to our elderly citizens through this inequitable provision of our social security laws. I, therefore, propose that there be no reduction in social security benefits in the case of a social security recipient who remarries.

Third. Under present law, if only the husband is entitled to receive social security benefits, and both he and his wife are disabled, no additional social security allowance is provided for the wife. This is inequitable. The theory of disallowing social security benefits to a wife whose husband is disabled is that the wife herself is able to work. But if she is also disabled, the theory plainly does not hold and she should receive an additional social security allowance, even though she is not otherwise qualified to receive social security benefits. My proposal will correct this inequitable situation.

Mr. President, the House-passed bill is a highly constructive and important milestone in social security legislation. The suggestions I have offered here today are intended to further the goal of providing dignity through financial security to our elderly Americans who have contributed so much to the building of this Nation.

The PRESIDING OFFICER (Mr. GRAVEL). The bill will be received and appropriately referred.

The bill (S. 4038) to amend title II of the Social Security Act to permit widow's benefits to be payable at age 50, to permit widower's benefits to be payable at age 60, to permit wife's benefits to be payable to a disabled wife at age 50, to permit husband's benefits to be payable to a disabled husband at age 50, and for other purposes, introduced by Mr. GORE, was received, read twice by its title, and referred to the Committee on Finance.

S. 4039—INTRODUCTION OF THE SMALL BUSINESS TAX SIMPLIFICATION AND REFORM ACT OF 1970

Mr. BIBLE. Mr. President, as chairman of the Select Committee on Small Business, for myself and the Senator from North Dakota (Mr. BURDICK) I introduce and send to the desk a bill entitled "The Small Business Tax Simplification and Reform Act of 1970." I ask that the measure be appropriately referred and that, for the convenience of all concerned, an analysis of its provisions may be printed in the RECORD at the conclusion of my remarks.

SUMMARY OF REASONS FOR OFFERING THIS BILL

Permit me to be candid about my underlying thinking for offering this broad-ranging tax legislation, for which I invite cosponsors who are interested in the small businessman's tax problems. The bill is not meant to be definitive. It is intended to be an introductory effort to invite the attention of our taxwriters, the Congress, and small businessmen generally to the importance of improving the tax climate surrounding the hard-pressed small business community of this country.

Mr. President, on the basis of hard economic facts alone, I believe the 5½ million small business men and women who contribute almost 50 percent of the employment in this country and one-third of the entire gross national product deserve this attention. Over the years small businessmen have not been able, for many reasons, to get their message through in the decisionmaking halls of Government as well as their big business brethren have done.

Certainly the 1969 Tax Reform Act was a monumental and much-needed measure. The Wall Street Journal declared that it was one of the most sweeping overhauls of our Federal tax laws in history. We admired the initiative and hard work of the chairmen of the Committee on Ways and Means (Mr. MILLS) and the Committee on Finance (Mr. LONG) and their committees who made enactment of this legislation possible. But, the Tax Reform Act did not help the small businessman to deal with his problems. In fact, it hurt him in several very important areas.

I view my small business tax revision proposal as a framework from which to build; a seed from which meaningful small business tax reforms can emerge over the next few years. It attempts to be comprehensive in scope because I believe that such an approach is called for in behalf of the free enterprise system. It marks out some new directions and will, I hope, open up other areas for serious discussion. I am not wedded to any of its specifics but I believe it provides a vehicle to move forward toward a small business tax reform and simplification goal.

This bill has been nearly 2 years in preparation. Originally, I considered offering it last year when major general tax reforms were before the Congress. I decided against that course because I did not want the small business tax reform appeals buried in the onrush of mightier voices and interests. Our Small Business Committee staff consulted with several dozen prestigious national and regional small and general business associations, tax organizations and practitioners and other tax experts both in and out of Government. This bill incorporates much of their thinking.

To retain and encourage a vibrant, viable, and enthusiastic small business economy nationwide, some incisive thought and decisive action must be brought to bear on small business tax problems. Taxes are a key element in the current economic tight-money, loan-reduction squeeze on small business which is having direct effects upon the question of whether thousands of firms can continue to compete, or whether they will be plowed under or are merged out of existence by the conglomerate, big business march.

SOME LEGISLATIVE HISTORY

The Small Business Committee has maintained a continuing interest in the tax laws and their impact on the Nation's 5½ million small businessmen.

The committee's involvement in this field may be traced back even beyond its formal beginnings 20 years ago to such studies as "Small Business Finance and Taxation" in February of 1949.[1] In 1963, the Subcommittee on Taxation, which was then under my chairmanship, undertook an analysis of the small business aspects of the tax revision proposals transmitted to the Congress by President Kennedy in January of that year. Our report restated and confirmed the conclusion that, although Federal business taxation may not differ in kind between large and small firms, it has been shown to differ substantially and significantly in degree.[2]

The select committee has thus followed closely the small business implications of tax legislation placed before the Congress each year, and from time to time have offered suggestions of our own when we felt it was appropriate.

As I have stated with respect to the 1969 Tax Reform Act, matters other than small business received higher priority during the limited time for consideration of this measure. Thus, far from bringing tax reform and relief to the Nation's small business community, the 1969 act changed the tax system adversely to small business at several strategic points, for example:

First. The investment tax credit was repealed, without an exception for small business, which needs it most.

Second. Multiple surtax exemptions were eliminated, without consideration for small business, for whose benefit this mechanism was originally placed in the law as a reform.

Third. Pension and retirement benefits were curtailed for owners of approximately 200,000 subchapter S small business corporations.

Fourth. Certain accelerated depreciation methods applying to real estate were eliminated or restricted, likewise without an exemption for small enterprise.

Fifth. State and local development companies, which help to finance new business enterprise, were unfavorably classified in the tax code with particular reference to bad-debt reserves.

These setbacks for small business took place despite the efforts of many Senators who introduced and worked for passage of small business amendments, one of which was a limited preservation of the investment tax credit, which passed the Senate and was deleted from the bill in the House-Senate conference.

My concern over these developments was multiplied by the heavy and mounting pressures against small business generated by record-high interest rates and cutbacks of 58½ percent in the last-resort lending programs of the Small Business Administration. It was my feeling that these forces were converging in a triple-credit squeeze which would have serious competitive effects on small businessmen throughout the country.[3]

In an effort to respond meaningfully to these difficulties, our committee undertook a broad study of what changes in the entire tax system might be needed in behalf of small business. In December, I was able to say to the members of one small business association:

> Intelligent tax reform in the business field also has long-run implications—for cost cutting and price stability; for entry into business; for growth and continued independence of firms; and for the entire economic environment which is so important to the career choices of our young people and the overall "livability" of our country. We all have additional homework to do, and I can assure you that we, on the Hill, are about this business.[4]

This bill being offered today represents an interim, but by no means a final, stage of this effort.

MAIN FEATURES OF THE BILL

This background has dictated that the small business tax bill be an attempt to

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[1] Senate Rept. 46, 81st Congress.

[2] "Impact of Current Tax Proposals on Small Business," Senate Rept. 397, 88th Congress, August 15, 1963, p. 3.

[3] "Small Business Caught in Triple-Credit Squeeze—Administration Should Release $170 Million in SBA Loan Authority Now," remarks on the Senate Floor by Senator Alan Bible, in the CONGRESSIONAL RECORD, vol. 115, pt. 13, p. 17274.

[4] "Small Business and Tax Reform" by Senator Alan Bible, *Small Business Bulletin*, published by the National Small Business Association, December 1969, p. 1.

look at the whole internal revenue system from the viewpoint of encouraging enterprise. This is not a revolutionary idea, but it does contrast with the purpose of raising revenue, which is the overriding and legitimate concern of the Internal Revenue Service. Our bill therefore seeks to approach comprehensively the tax problems of American enterprise at each stage of the business life cycle—from the founder's idea to establishment of the business, through the growth phases, and up to the final disposition of the mature business organization.

The bill consists of 8 chapters and more than three dozen sections. Counting subsections, the bill thus presents over 40 recommendations for changes in the Internal Revenue Code to modify the substance and administration of the tax system.

In order that small business tax reform strengthen the fight against inflation and not weaken it, this proposal is fully balanced in the revenue sense. In fact, this bill will produce additional revenue, over both the short term and long term. This would follow from: first, the graduation of corporate rates, which would yield an immediate revenue gain; and second, the growth of enterprises encouraged by the bill, which would systematically broaden the tax base for the future.

With slightly increased rates for the giant corporations, there will be more than enough revenue leeway to offset tax reduction, relief, and reform provisions for businesses earning less than $1 million per year.

Yet, because of the expiration of the surtax at the end of this fiscal year, the overall rate paid by even the largest corporations under this bill would be less than it is at present.

TAX SIMPLIFICATION

Perhaps the basic thrust of the bill is for tax simplification. In its stripped-down form, the Internal Revenue Code is still 1⅜-inches thick. Together with voluminous regulations, bulletins, rulings, procedures, press releases, manuals, forms, instructions, guidelines, and explanations, the total tax system that confronts the businessman is literally a mountain of material which is nearly impenetrable to those lacking in special tax training.

It is important to keep in mind the general rule that the smaller the business, the less will be the likelihood that it can afford highly specialized tax work by accountants and lawyers. Thus, the weight of the tax system itself is disproportionately against smaller firms.

To begin cutting a path through this wilderness, this bill would establish a permanent Intergovernmental Committee on Tax Simplification, as well as an Advisory Council where small business representatives would constitute 50 percent of the membership. In these forums the taxers and the taxed would be able to meet regularly and discuss their mutual problems. There would then be a regular and public channel for small business suggestions and complaints, which could then be examined for both policy and technical standpoints in a manner visible to the press, the public, and the appropriate committees of Congress. The six memberships on the Advisory Committee allotted to small business would assure a strong voice for the varied segments of the small business community including specially qualified persons.

The first title of the bill would also create the position of Small Business Tax Analyst within the Department of the Treasury. This official could focus continuing attention within the Federal Government on the tax problems of small business, competition, and the free enterprise system.

For instance, the bill asks for a special chapter in the Internal Revenue Code for the purpose of accumulating and referencing statutory provisions dealing primarily with new and small business.

NEW ENTERPRISE

Another departure in the bill is the section on "New Enterprise," which essentially would give a beginning business enterprise freedom from Federal taxation for its first 5 years. The section contains several safeguards so that undue advantage could not be taken of this benefit. Business has a tough enough time getting started and many, if not most, small firms experience losses in their early years. In addition, they must compete against rivals established for many years who may have built up much of their financial and market power during a period when there was little or no income tax on business in this country.

Such a 5-year incentive provision would offset some of the extra hazards a person must endure in risking his capital, his labor, and his career in starting a business. It would also serve as a partial equalizer against the tax-free resources built up in the older corporations.

Other salient proposals contained in the bill include: statutory status for depreciation guidelines and elimination of the reserve-ratio test for small business; reinstatement of a limited small business investment tax credit at $50,000 of qualified investment for manufacturing corporations, $10,000 for other corporations, and $5,000 for individuals; an increase in allowable accumulated earnings; authorization of a limited number of surtax exemptions for a family business; partial relief for business development corporations; liberalization of subchapter S "tax option" corporation rules as to the numbers and classes of shareholders, termination, and loss treatment; assistance to partnerships and partners; an assist during the first 5 years for low-income cooperatives; a restriction on debt-financed acquisitions to discourage takeovers of small business by conglomerate companies; and the call for an authoritative recommendation to strengthen and preserve small business independence in contemplation of its disposition.

AREAS NOT INCLUDED

Two important subjects are omitted from the bill, and I believe their absence should be explained. The first is multistate and locality taxation of interstate business. This has been an increasingly worrisome problem since our committee held the initial set of hearings on this problem in 1959.[5] After an exhaustive study, relief legislation was offered. This bill, numbered H.R. 7906 and S. 916, has passed the House and is now pending before the Senate Committee on Finance. I strongly favor rationalizing legislation in the field. I welcome Senator LONG's willingness to hold hearings on this problem and hope the Finance Committee can take early action to advance a measure which it believes is appropriate.

A second area not treated in the bill is that of small business investment company activity. Venture capital is directly relevant to the growth of small businesses, particularly in new technology areas. It is my understanding that the SBIC industry has discussed its tax needs with other committees of Congress and that there is also a current proceeding before the Securities and Exchange Commission in connection with which briefs were still being submitted in May.

In view of the pendency of these other efforts, we have not come forward with proposals in either the interstate taxation or the SBIC area at this time.

BACKGROUND

If, as some distinguished economists have said, the giant corporation constitutes the "heartland of our economy," what is the point of making a fight for tax equity for small business?

Among the stated reasons that some of our more critical citizens feel as they do about the country is that it may be slightly "sick at heart" because of the evils of giant, impersonal corporations which operate unrestricted by any fixed set of community, family, or moral responsibilities.

In announcing his support for "Campaign GM," young John D. Rockefeller IV recently expressed it this way:

> Large corporations are faceless. Their decision-making affects the lives of millions of people. But who, as individuals, are accountable?[6]

New studies are bringing home the fact that millions of American citizens live in poverty, and millions more have the slenderest of assets, savings and reserves, and can thus never hope to be economically secure.

It is thus becoming increasingly apparent that a substantial proportion, perhaps more than one-half of our population, is not part of the American way of life as we have traditionally understood this term as including the expectation of material success and comfort.[7]

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[5] See, for instance, "Free Trade, American Style," by Robert B. Ely, *American Bar Association Journal*, May 1970, p. 470.

[6] *The Washington Post*, May 14, 1970, p. A 32:1.

[7] See, for instance, "Middle Classes' Lean Streak" by Richard Parker, *The Washington Post*, April 12, 1970, p. B 1:1. The author states the Government's estimate of "the poor" is about 16 percent of the population, or 32 million, while "deprived Americans"—those above poverty but short of minimum requirements for a modestly comfortable living—were estimated by Leon Keyserling in 1964 as 77 million, or 38½ percent. It was further estimated that 20 percent of the "deprived" group had no liquid assets; 40 percent have savings of less than $100, and 48 percent own less than $500 in assets.

Although the giant national and multi-national corporations set the tone of our economy, there is a tendency to exaggerate their importance. Small owner-managed independent businesses still account for perhaps 50 percent of the employment in this country and one-third of the entire gross national product.

To about 40 million people, small business means earning a livelihood. A portion of these people could not otherwise accommodate themselves to our economic system.

For some, these businesses mean the realization of dreams and ambitions, because they are willing, against all the odds, to work harder and take more risks to build their own financial future. For others, a small business may be an opportunity to pursue individuality and personal identity rather than start at the bottom of a safe but highly structured business organization.

Also, in the present atmosphere of high interest rates and business taxation, it is becoming increasingly difficult not only to begin a new firm but to maintain the independence of an existing one. During 1969, mergers removed 4,550 firms from the U.S. economy, an increase of 16 percent over the record high of 1968.[8]

A classic statement of the overall significance of small business to U.S. society was set forth by the prestigious Committee on Economic Development about 30 years ago.[9]

> Whatever its type or stage of growth, the small business is a manifestation of one of the basic freedoms of American life. This is the freedom to enter or leave business at will, to start and grow big, to expand, contract—or even to fail. This freedom to be enterprising is an aspect of the economic democracy without which our political democracy cannot exist.
>
> In many lines and in many markets—notably in home communities and for customers desiring individual service or products made to particular specification—small business is able to do a better job than big business. Furthermore, the ingenious small enterpriser often is a source of new materials, new processes, new services, that older, better established firms cannot or will not offer. The whole pattern of our commercial system is enlivened and enriched by the independent businessman.

So, small business can be the safety valve of the young, the innovative, the creative, the ambitious, and the economically frustrated. It is also a constructive vehicle by which less advantaged people, including minority groups of all races and national origins, can work their way into the mainstreams of American life—that is, if the Federal Government gives them a reasonable and realistic chance.

During the past year it seems to me that the policies and actions of the Federal Government have had just the reverse effect. The screws have been tightened on existing and prospective small business entrepreneurs. Profits have fallen. Life has been made harsher instead of easier for small businessmen. The frustrations of these energetic elements of society have been increased by talking much and doing less than nothing, that is by actually undermining small business profitability and prospects for success.

Such malign neglect of the spirit of business enterprise could very well result in more and increasingly unpleasant assaults on corporate headquarters, stockholders meetings, facilities, and personnel, unless we in Washington are acting to give small and independent businessmen an even break. I consider one of the most important tasks facing the Congress and the executive branch is to widen the "room at the bottom" for those who want to become new and small businessmen and climb the ladder of economic opportunity in this country.

CALL FOR ACTION

Mr. President, to me, action means legislation, where it is called for, and legislation that is realistic and responsive to the problem.

I recognize that business ownership and participation is not the only path to economic fulfillment, nor will tax legislation alone resolve every difficulty of small business, or even the majority of them. Other economic problems and opportunities require combinations of measures which may or may not have anything to do with business enterprise or with taxation.

But we have seen that small businesses add up to a major weight in our economic balance. The tax system, in turn, is a material factor in whether small business will be founded, will grow, and will or will not be merged out of existence. Beyond this, the tax system is a powerful psychological factor. It conditions the entire climate in which commercial activities take place. Taxation signals every year to every citizen whether or not his Government really means to aid, counsel, assist and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise.

I want that signal to be loud and clear.

In this regard, the present administration has sponsored a small business study, published in March of 1970, and has sent to Capitol Hill messages on tax and nontax proposals.

I believe I speak for many members of our committee and of the Senate in welcoming these initiatives. President Eisenhower linked his name with small business by signing the Small Business Act of 1953 and the Small Business Investment Act of 1958. More recently, the Johnson administration first sponsored small business incentive legislation in the form of the Small Business Investment Act amendments of 1967. President Nixon has said on several occasions that he believes in the American dream because he "has seen it come true in his own life." Business ownership is an important part of that vision, and we hope that he will follow in the footsteps of past Chief Executives and even go beyond them in effective assistance to small business.

For the record, it may be pointed out that the administration's March 1970 study entitled "Improving the Prospects of Small Business" consisted of 11 pages, just under one page of which pertained to taxes. I do not regard this as an authoritative exposition of the tax needs of small business, although it is a useful contribution in this area. In comparison the Advisory Council of the Small Business Committee submitted a report on December 16, 1968, that extended to 40 pages, seven of which were devoted to corporate taxation. It is unfortunate that Congress now has the benefit of both studies and will have at least two sets of proposals in bill form which it can consider. Accordingly, I believe that the Congress should soon be ready to move ahead in this area.

The bill I have introduced today is certainly not perfect. We believe the comprehensive approach has something special to offer because it will focus the efforts of the tax community on the dynamics of the free enterprise system as a whole, rather than the technicalities of various chapters and sections of the code. The bill thus marks out some new directions and will, I hope, open this entire area to serious discussion. There are undoubtedly omissions in this bill, and there can surely be improvements. But, as I have said, I think we have a foundation on which the Congress can build.

One way of proceeding would be to have all such tax bills circulated to the cognizant executive agencies and departments as well as all interested private organizations and associations. In these forums it can undergo discussion, comment, criticism, debate, and the addition of any and all refinements, corrections and better ideas. It seems to me that the period between now and next January will afford an ample opportunity for the professional study which these matters deserve. We could then reconvene in the next Congress with the understanding that there might be serious deliberation and action upon what, hopefully, could be an improved version of my bill and other bills at that time.

In whatever manner the Congress wishes to proceed, I shall be glad to cooperate in these matters in any way which will hasten the enactment of legislation resulting in meaningful tax simplification and reform for the American small business community.

The VICE PRESIDENT. The bill will be received and appropriately referred; and, without objection, the analysis will be printed in the RECORD.

The bill (S. 4039) to amend the Internal Revenue Code of 1954 to provide income tax simplification, reform, and relief for small business, introduced by Mr. BIBLE, was received, read twice by its title, and referred to the Committee on Finance.

The material presented by Mr. BIBLE is as follows:

SECTION-BY-SECTION ANALYSIS OF SMALL BUSINESS TAX REFORM-SIMPLIFICATION BILL

OVERALL ANALYSIS

The Small Business Tax Simplification and Reform Act of 1970 is designed to be balanced in the revenue sense, with slight immediate and long-term increases of tax revenues through minimally higher normal tax rates on giant corporations, and the cul-

[8] "Merger Toll: 4,550 Firms," by David Vienna, *The Washington Post*, May 13, 1970, p. E9:6.

[9] *"Meeting the Special Problems of Small Business,"* a Statement on National Policy by the Research and Policy Committee of the Committee for Economic Development, New York, 1947, pp. 13–14.

tivation of vigorous new small enterprises which will enlarge the tax base in the future.

Despite the increases at the upper end of the scale, the enactment of this bill would still result in a tax reduction for even the largest corporations, because of the expiration of the 10 percent surtax at the end of this fiscal year.

The revenue gains made possible by the rescaling of normal rates would make it possible to shift a small fraction of the corporate tax (about 1 percent) on the basis of the ability to pay. Corporations with earnings in excess of $1 million per year would be yielding commensurate benefits to new enterprise, small existing family and independent business, and firms willing to modernize to meet the terms of national and international competition.

The bill also proposes an institutional arrangement for focusing continuing professional attention on tax simplification by way of a standing intergovernmental committee on tax simplification and a Business Advisory Council on which the small business community would be assured a significant voice.

ORGANIZATION OF THE BILL

This bill consists of 8 chapters, as follows:

Title I—Tax Simplification.

Title II—Adjustment of Corporate Normal Tax.

Title III—Special Provisions to Encourage Establishment of New Small Business Enterprises.

Title IV—Provisions to Assist Small Business Growth.

Title V—Provisions Relating to Partnerships.

Title VI—Provisions Relating to Subchapter S Corporations.

Title VII—Business Development Corporations.

Title VIII—Preservation of Small Business Independence.

SECTION-BY-SECTION ANALYSIS

Title I—Tax Simplification

SEC. 101. Intragovernmental Committee on Tax Simplification for Small Business.—The first substantive section creates a permanent standing committee of the Federal Government for the purpose of devoting continued attention to the simplification of the Internal Revenue Code, the regulations, instructions, procedures, and other publications relating to business taxation. The membership of the Committee would include: representatives of the Secretary of the Treasury (for policy matters); Internal Revenue Service (for technical matters); Bureau of the Budget (for coordinating the paperwork aspects of IRS forms, in view of the Federal Reports Act) and the Small Business Administration to express the interests of the small business community. The Committee would provide a forum for regular and periodic contact between the various Federal agencies concerned, the businessmen affected, and the Congress. The proposed Advisory Council is intended to provide for an effective voice for small business by a delegation large enough to reflect the diversity of interests of small enterprise.

SEC. 102. Treasury Department Small Business Analyst.—The small business tax analyst which would be created by this section would be one official in the Treasury Department responsible for looking at tax problems primarily from the view of small business and the free enterprise system rather than the Government's interest in raising revenue. Such a position could provide a focus for assisting in the studies and reports proposed in this Act. Beyond this, a small business tax analyst could supply a continuity of effort required to assess the difficult and multifaceted problems raised by the impact of Federal, State, and local taxation on small business, competition, and the free enterprise system.

SEC. 103. Internal Revenue Code Chapter on New and Small Business.—The present organization of the Internal Revenue Code of 1954 is by subject matter. This section would have the Treasury consider a special title or chapter of the Code which consolidated and referenced those tax provisions relating particularly to new and small enterprise. This should be helpful to both non-tax-specialist attorneys and others counseling small firms, as well as to small businessmen, and prospective entrepreneurs.

SEC. 104. Revision of Depreciation Policy.—Recent developments, such as abolition of the investment credit, call for a re-evaluation of the nation's depreciation policy. In addition to the specific proposals embodied in sections 401 and 402 of this Act, the bill calls upon the Treasury Department for a comprehensive study of depreciation policies with particular attention to: the impact of recent legislation, including the Tax Reform Act of 1969 and such provisions of this legislation which may be enacted; the rapid advances in technology to which small business must adapt; and the practices of other industrialized nations.

The bill requests an early return of the results of this study to the Congress.

SEC. 105. Equalization of Benefits Among Incorporated and Unincorporated Businesses.—The Tax Reform Act of 1969 restricted retirement and pension benefits for small firms based upon comparability with unincorporated business. This section calls upon the Treasury to study the entire range of pension, retirement, health, medical, and insurance benefits in the larger context of what both corporations (including large corporate enterprise) and other forms of business are providing for their employees and executives.

Title II—Adjustment of corporate Normal Tax

SEC. 201. Corporate Normal Tax Rate.—The Tax Reduction Act of 1964 lowered tax rates for unincorporated business by approximately 20 percent; but for corporations where the bulk of the business is done, the reduction was only 10 percent. Although there was material relief for small business by reversal of the application of corporate normal and surtax rates, the same 2-step graduated structure was retained.

This title would effect a progressive reform in the entire corporate tax structure by providing for reductions in normal corporate tax rates for corporations earning less than $500,000 a year. From income of $500,000 to $1 million, the base rate of 22 percent would remain the same, but the effective rate of taxation would drop due to the reduced percentages in the lower brackets. As corporate earnings rose above $1 million per year the normal tax would incline slightly upward to a maximum of 24 percent for corporations earning over $1 billion annually.

In all, an 8-step graduated scale would bring corporate taxation more nearly into accordance with the principle of the ability to pay which has long been in effect for individual income taxes.

Title III—Special Provisions To Encourage Establishment of New Small Business Enterprises

SEC. 301. Exemption of Operating Income for 5-Year Period.—This section introduces a new concept that new enterprise should be encouraged by allowing freedom from Federal income taxation for a period of 5 years. It would be a partial equalizer for small firms which must compete with companies which have not only been established for many years, but which may have built up substantial financial resources during the period when there was little or no corporate taxation in this country. Benefits of this section would be restricted to persons entering a business for the first time, and who would be spending full time in the capacity of an owner-manager of an active trade or commercial business. A further restriction would be to benefit only the operating income of the enterprise, excluding gains from security and real estate transactions, which would be subject to taxation in the regular manner.

SEC. 302. Carryover of Net Operating Losses.—In recognition of the difficulties generally experienced during the start-up period of a business, this section would allow operating losses incurred during the first 5 years to be carried over against income earned from the 6th to the 15th year.

SEC. 303. Amortization of Organization Expenses of Partnership.—This would extend to partnerships the option now enjoyed by corporations, to amortize their organization expenses over 60 months, if they so desire.

SEC. 304. Bad Debt Deduction for Lenders to or Guarantors of Corporate Obligations.—This provision would equate the tax treatment of lenders to or guarantors of business obligations, whether the businesses are incorporated or not, by extending the ordinary loss rule presently applicable to unincorporated business lending.

SEC. 305. Losses on Small Business Stock.—To update incentives to invest directly in small businesses which are presently contained in the Code, this section would increase from $25,000 to $50,000 the amount of allowable losses resulting from the purchase of section 1244 stock.

A second provision of this section would expand the definition of a "small business corporation" authorized to issue such stock from $1 million to $1,500,000 in "equity capital" as defined by the section.

This subsection would have the effect of allowing previously ineligible corporations with equity capital of between $1 million and $1,500,000 to issue 1244 stock in the amount of $750,000 (compared with $500,000 under the present section) and to permit previously eligible small business corporations to issue stock up to the $750,000 amount, if they are otherwise in compliance with the applicable rules.

Further provisions of section 305 would enlarge from 2 years to 5 the time within which a section 1244 plan must be executed and would preclude stock options to employees from disqualifying such a stock issue.

SEC. 306. Patronage Benefits for Certain New Cooperative Enterprise.—To encourage the formation of cooperatives which have so well enriched rural American life, this section would permit such a new cooperative to retain 100 percent of declared patronage refunds (rather than the current 80 percent) for the first 5 years of its existence on the condition that substantially all of the membership and patrons are persons of low income and reside within a limited geographic area.

Title IV—Provisions To Assist Small Business Growth

The eight sections of Title IV are designed to provide encouragement for modernization, efficiency, and cost reduction. It has been estimated that from ⅔ to ⅘ of all capital used in business is internally generated. There is wide agreement that small businesses must rely most heavily on retained earnings since it becomes progressively easier to employ sophisticated financing methods as a business increases in size and experience.

SEC. 401. Additional First-Year Depreciation Allowance.—This section would increase additional first-year depreciation from $10,000 to $20,000 in accordance with increases in the costs of living and doing business since the section was previously revised in 1958.

SEC. 402. Regulatory Status for Depreciation Guidelines and Elimination of Reserve Ratio Test for Small Business.—For the same purposes, this section would make the liberalized depreciation guidelines contained in Revenue Procedure 62-21 more fully available to small businesses by elevating the status of that publication to a

regulation pursuant to statute. It would initially fix the length of guideline lives as those contained in the Revenue Procedure, and would eliminate the reserve ratio test for firms designated as "small business" by the Small Business Administration.

SEC. 403. Partial Restoration of Investment Credit.—Every advanced industrialized nation has both a modernized depreciation system and investment incentive device. All of the 91 percent of small corporations accounted for less than ¼ of the investment tax credit, but its use by small business contributed greatly to the forward progress of the American economy through innovative investment.

This section would partially reinstate the 7 percent investment credit which was totally abolished in the Tax Reform Act of 1969, but would do so in a manner which would be highly tailored to reduce its cost and concentrate its benefits in areas which can do the maximum good for the economy. Corporate manufacturing would be allowed $50,000 worth of qualified investment. However, permissible investment for other corporations and individuals would be scaled down to $10,000 and $5,000 respectively. In each case there would be an appropriate income ceiling of $500,000, $100,000, and $50,000, above which such high-income taxpayers would receive no benefits from the section.

SEC. 404. Optional Net Operating Loss Carryback and Carryover Period.—This section would extend the period and flexibility in use of loss carryover provisions for small business by allowing existing corporations to slide these losses in either direction over an 8-year period: 4 years forward or 4 years backward, at their option.

SEC. 405. Accumulated Earnings.—The first subsection would raise the earnings credit in accordance with the costs of doing business, to a more realistic $150,000. The second subsection would confirm the Congressional intention of section 534, that the burden of proof in all accumulation of earnings proceedings would be on the Commissioner of Internal Revenue after the taxpayer has filed an appropriate written statement.

SEC. 406. Amoritization of Certain Securities Expenditures.—One of the most critical hurdles for a growing small business is selling its securities to the public. This section would allow the expenses of certain types of small business stock flotations, such as those under Regulation A and section 1244 of the Code, which are not otherwise deductible, to be amortized over a period of 60 months. A further helping provision in this vein would accord the same treatment for the expenses of an initial registration of a company's securities on a regional stock exchange.

SEC. 407. Amortization of Research and Development Activities.—This provision would allow research and development expenses to be amortized beginning at the time they are made, rather than waiting until the taxpayer "first realizes benefits" from these expenditures.

SEC. 408. Multiple Surtax Exemptions Under Single Family Control.—In order to encourage opportunities for family ownership of business, this section would permit a limited number of surtax exemptions (up to 5) in the event members of a family are placed in proprietary positions where they have ownership of at least 50 percent of the stock (or other interest) and full time management of a separately incorporated unit of a family business.

Title V—Provisions Relating to Partnerships

SEC. 501. Guaranteed Payment to Partner.—This section is designed to avoid double taxation of guaranteed payments from a partnership to a deceased partner. At present a partnership interest is includable in gross estate in full, and payments from these same assets may now be taxed as distributive income of a person not considered a partner under section 707(c).

SEC. 502. Closing of Taxable Year at Death of Partner.—Additional flexibility in the affairs of the deceased partner would follow from this section, which would allow the closing of the partnership year for such a decedent at any of the following times: (1) normal close of the partnership year if there has been no prior sale, exchange, or liquidation of the partnership interest; (2) the date of any of the above described transactions; or (3) the day after the partner's death.

SEC. 503. Termination of Partnership.—This section would modify present section 708(b)(1)(B) which provides that a partnership will be considered terminated if there is a sale or exchange of 50 percent of the total partnership interest within a 12-month period. An exception would be provided for transactions among the partners themselves provided they have been members of the firm for at least 1 year.

SEC. 504. Limitation of Distributive Share of Losses.—This section would amend section 752 to permit a partner to deduct currently his share of partnership losses in excess of the adjusted basis of his partnership interests, in the event that the partner is unconditionally obligated for his share of such partnership losses.

Title VI—Provisions Relating to Subchapter S Corporations

SEC. 601. Increase in Number of Permissible Shareholders.—This section would allow enlargement of the Subchapter S "tax-option" small business corporations in the following 3 ways: (1) initial shareholders could number 15, rather than the present 10; (2) shareholders in excess of this ceiling who take their stock by reason of heirship would not disqualify election; and (3) after 5 years, the number of permissible shareholders would increase to 25, broadening possibilities for motivating employees by way of stock options and for infusion of fresh capital for the expansion.

SEC. 602. Broadening Classes of Permissible Shareholders.—The classes of shareholders would also be expanded by this section to include: (a) trusts where stock passes pursuant to a will, and where the trust is used merely to convey the stock to a long-term elegible holder within 60 days; (b) trusts where the entire income is taxable to the grantor; and (c) small business investment companies, subject to the elimination of the dividends-payed credit on such income.

SEC. 603. Termination by Majority of Shareholders.—Under the present law, a new shareholder can void the Subchapter S election for himself, the corporation, and all other shareholders. Under the rule proposed by this section, a new shareholder would stand on the same footing as all other shareholders, and any 51 percent of the stock ownership could revoke the election.

SEC. 604. Termination of Election—Passive Income.—This section provides additionally for nondisqualification of a Subchapter S corporation by reason of exceeding the limit of 20 percent passive income in a single year. The election privilege could still be lost pursuant to this proposal if the limit is exceeded in any 2 of 4 consecutive years.

SEC. 605. Termination of Election—Inadvertence.—This section would relieve considerable pressure on small business corporations in the event there has been a termination of status because of events beyond its control. If the corporation is able to establish that the termination was, in fact, inadvertent and can gain full compliance within 90 days of notification, its Subchapter S status would be preserved for future years.

SEC. 606. Carryover of Losses.—This section would equate carryover treatment of Subchapter S loans in excess of basis under section 1374(c) with those of partnerships under section 704(d). Thus, if the basis was rebuilt in a future year, the excess loss would become available as a current deduction.

Title VII—Business Development Corporations

SEC. 701. Bad Debt Reserves of Business Development Corporations.—To encourage State and local development companies to extend long-term financing to non-bankable new enterprises, such companies would be permitted a bad-debt reserve deduction up to 10 percent of outstanding loans.

SEC. 702. Non-recurring Income of Business Development Corporations.—Since these institutions are in a unique position to foster community development by taking long-term risks with private capital, non-recurring income of certain types would be insulated from tax upon the condition that the proceeds from such unusual transactions are re-invested within the area of service and no part of these proceeds inures to the benefit of any individual or private institution.

Title VIII—Preservation of Small Business Independence

SEC. 801. Quarterly Adjustment of Estimated Tax.—In the event corporations suffer financial reverses in 1 or 2 quarters, they cannot now recover amounts paid to the Federal Government in estimated taxes. This section would allow recovery of such amounts to the extent the newly estimated tax for the year is less than the amount already paid in. These readjustments could occur at each quarter.

SEC. 802. Debt-Financed Corporate Acquisitions.—The objective of this section is to afford a practical means of discouraging mergers by disallowing interest deductions beyond $500,000 on any loan for acquisition purposes. It would be clear that financing through banks and other financial institutions, whether by a line of credit or otherwise, would be covered by this section, as well as debenture financing.

SEC. 803. Valuation of Stock of Closely-Held Corporations.—A problem of disposition of any interest in a closely-held business has been valuation. The present law provides for comparison only with companies listed on a stock exchange, which are often more established than those which are not. This proposal would permit valuation comparisons with any similar company whether or not it is listed on an exchange.

SEC. 804. Amalgamation of Interests in Closely-Held Businesses.—At present, under section 6161(d) it is required that a decedent own at least 50 percent of a business in order that its value be eligible for aggregation to meet the tests allowing installment payment of estate tax attributable to such business interests. This provision would make it easier for businessmen to qualify for aggregation by permitting addition of interests exceeding 33⅓ percent of a business toward the totals.

SEC. 805. Recommendations as to Preservation of Independent Small Business.—The final provision would have the Treasury conduct a comprehensive examination of the converging pressures of income taxes, capital gains tax, reorganization rules, and estate and gift taxes which are causing so many small businesses to sell or merge out of existence rather than continue in independent form. The section calls for a report and recommendations which would improve the tax climate at this stage of the business life cycle for preservation of independent enterprises.

S. 4041—INTRODUCTION OF A BILL TO REPEAL SECTION 7275 OF INTERNAL REVENUE CODE OF 1954, RELATING TO AMOUNTS TO BE SHOWN ON AIRLINE TICKETS AND ADVERTISING

Mr. TOWER. Mr. President, the Senate will recall that earlier this year we

passed rather important and far-reaching legislation known as the Airport and Airway Revenue Act of 1970, Public Law 91–258. The bill passed the Senate on February 26 by a unanimous rollcall vote and the conference report passed the Senate by voice vote just last month. So my colleagues can see that it was not unpopular legislation.

Now it has come to my attention that there was a sleeper provision to the bill, a section that disturbs me more than a little.

Section 203 of the act amends section 4261 of the Internal Revenue Code to increase the tax on airline tickets from 5 to 8 percent. The same section of the act also added a new section, section 7275, to the code. The new section provides that the airline ticket must show the total of the amount paid for air transportation and the 8-percent tax and may not show separately either the amount paid for air transportation or the tax. Similar rules are provided for advertising by air carriers or persons offering to arrange air transportation.

What this means is that henceforth it is unlawful for airline ticket agents to show how much of the ticket price is for tax. In other words, the agent is prohibited from breaking down the full price into the cost of the flight and the amount of tax. On a flight costing $100, there would be an additional $8 for tax. The full fare of $108 would be shown on the face of the ticket, but nowhere would the agent be permitted to show the $8 as tax.

In advertising, the full flight price including tax would have to be used, if a price were given in the ad, but it would be unlawful to break the price down into its components of ticket cost and tax.

In a letter to me dated June 25, Mr. K. Martin Worthy, Chief Counsel for the Internal Revenue Service, states that:

> The new section 7275 was added to H.R. 14465 (which became the Airport and Airway Revenue Act of 1970) by the Conference Committee. The Conference Report (H. Rept. 91–1074, 91st Congress, 2nd Session, at page 47) is silent as to the reasons for the inclusion of Section 7275. However, Senator Long, Chairman of the Committee on Finance, made the following remarks on the Senate floor in presenting the conference report:

Mr. Worthy then goes on to quote the distinguished Senator from Louisiana as follows:

> The conference accepted the general intent of the Senate's tax on the airlines by stating that the airlines, and also the travel agents, in the case of travel all of which is subject to the 8 percent domestic tax, has to show on the ticket only the total ticket price, including the 8 percent tax. In the case of advertising also, the price shown must include the entire tax in the case of domestic transportation and must not contain a separate listing of the fare or tax. These measures will give assurance that the public will know the total airfare for a particular domestic flight and not be misled into assuming that the fare alone represents the total cost. It also will mean that passengers, upon arriving at the ticket counter will not have to wait in line while separate computations of tax and fare are made.

The quote appears in the May 12 issue of the CONGRESSIONAL RECORD, page 15134.

Mr. President, I am in total disagreement with the wisdom of this section. The effect of it is to withhold information from the purchaser of the ticket rather than to furnish him more information. I think it is extremely important that consumers know the exact price of the product they buy and the exact amount of the tax levied. We should make an effort to uncover the hidden taxes where they exist, not move in the direction of furtively including them in the purchase price and then blandly covering up the evidence.

Those of us in this Senate who have a record in favor of economy in Government sometimes think we do not have much going for us when appropriations bills come up and amendment after amendment is added increasing Government spending to collosal proportions. About the only weapon we—as representatives of the American people—have is to point out to taxpayers how much they are having to pay for Congressional largesse. One of the unfortunate aspects of the withholding tax on salaries is that it dulls the senses of taxpayers to what is happening to their money. If we never receive it, it is not registered as a loss when taxes are paid.

I think the Airport and Airway Revenue Act of 1970 is a good bill. The concept of the user tax will allow those who use these facilities to pay for them. But I have very definite objections to this particular aspect of it. I think it sets a dangerous precedent. I am prompted to wonder if this is the beginning of a trend to hide all taxes by palming the blame onto the retailers and persons standing in similar relationship to the consumer.

If section 7275 remains law, however, and is extended to other business transactions, one can imagine the confusion.

It is laws such as this that damage the credibility of Congress. I have gotten a number of letters from travel agents in my State who are incensed—and I think rightfully so—about this section. I imagine other Senators have received similar mail.

In an attempt to restore our credibility, I am introducing today legislation which would repeal section 7275, I would welcome the support of other Senators as cosponsors if they believe, as I do, that truth in government demands that we have truth in taxation.

Unfortunately, Mr. President, the tax increase and the provisions of section 7275 go into effect tonight at midnight. I introduce this bill on the eve of the activation of this law. Although there is not time for us to amend the law prior to its going into effect, I would hope the distinguished chairman of the Finance Committee would take another look at this situation and consider the merits of this bill, then give the Senate an opportunity to right this problem.

The VICE PRESIDENT. The bill will be received and appropriately referred.

The bill (S. 4041) to repeal section 7275 of the Internal Revenue Code of 1954, relating to amounts to be shown on airline tickets and advertising, introduced by Mr. TOWER, was received, read twice by its title, and referred to the Committee on Finance.

S. 4044—INTRODUCTION OF THE COMMERCIAL TECHNOLOGY ASSESSMENT ACT OF 1970

Mr. MAGNUSON. Mr. President, I introduce for appropriate reference, on behalf of myself and the Senator from Michigan (Mr. HART), the Commercial Technology Assessment Act of 1970. This act establishes the Independent Technology Assessment and Environmental Data Collection Commission. The Commission will have two main functions: First, to make assessments, without regulatory force, as to the desirability of allowing adoption of proposed new technological develpments, basing these assessments upon an evaluation both to the need for such technologies and of the probable environmental consequences of implementing these technologies, and second, to collect, store, and systematically make available all known environmental data relevant to making such assessments.

The purpose of this act is fourfold: to consider the long-range economic, environmental, and social impacts of new commercial technology; to develep an independent research capability that can serve as an "early warning system" to keep Government, industry, and the public aware of possible economic, environmental, and social costs of such technology; to identify and evaluate alternatives to proposed technologies prior to the adoption of such technologies and prior to funding of Government programs employing or promoting such technologies; and finally, to develop a systematic and thorough collection of all environmental data, in order best to assess the envronmental impact of the technologies under consideration.

The purposes of this act will be implemented by the Independent Technology Assessment and Environmental Data Collection Commission. Members of the Commission will be named in the act, and the Commission will have an initial authorized life of 15 years. The Commission will be responsible for collecting and depositing all relevant environmental information, knowledge, and data. This information will be collected from a variety of sources, both national and international. All Government departments, agencies, and instrumentalities will make available to the Commission whatever such information they may have in their possession, and whatever information they may gather in the course of their activities and from the nongovernmental organizations with whom they may contract for services.

The Commission will review all policies, plans, programs and operations of the industrial enterprises and departments of the United States government, in order to identify inadvertent or undesirable consequences stemming from the technologies used or proposed to fulfill those policies, plans, programs, and operations. The Commission will examine alternative technologies, seeking for methods to implement government policies in an environmentally benign manner, and will report its findings and recommendations promptly to the President and to Congress. The Commission's recommendations will include steps that

the Commission deems necessary to safeguard the health, safety, and environmental quality of the United States from undesirable effects of new technology.

Finally, the Commission will initiate such research as is required in order to make its assessments. The fruits of this research, as well as access to the Commission's environmental information data-bank, will be made available to all levels of government, and to private persons and entities for such fees as the Commission deems necessary to recover the cost of providing this information.

TECHNOLOGY ASSESSMENT AND ENVIRONMENTAL DISRUPTION: PREVENTION AGAINST CURES

Mr. President, despite its somewhat unwieldy title, this is a bill that the Senator from Michigan and I feel has enormous significance for the future of this Nation. To adequately describe this legislation, its purpose and import, would require more time than I would feel justified in asking with so many important matters on the Senate Calendar for the next few days. I will keep my remarks today brief, and the Senator from Michigan will also comment briefly, but we will make a more thorough analysis of our proposal at a later time.

Our purpose in offering this legislation today is to call the attention of both the scientific and lay communities to this technology assessment plan, and to invite their comments and opinions. The Commerce Committee, to which I will ask unanimous consent that this bill be referred, will hold extensive hearings on this legislation and on the technology assessment concept in general. The present bill is only a working draft that we expect to modify as more and more experts have had an opportunity to examine it and to express their views.

The concept of technology assessment is an unfamiliar one to many people, and hence the significance of this legislation may not be immediately obvious. To explain why technology assessment is a necessary precondition to sound environmental policymaking, it is necessary for me to recapitulate briefly the history of the current environmental crisis and the major lessons we have learned in attempting to deal with that crisis.

"Environment" and "ecology" have become household words only within the last year or two. But the environmental crisis that has so dominated the energies and attention of the American public and all levels of government during this time did not begin suddenly. The depletion of our resources, the despoilation of our wilderness and recreation areas, the fouling of our air and water with pollutants are all processes whose origins are lost in history.

What is new is a national sense of environmental awareness—a sudden recognition that "Progress" has costs as well as benefits, even if those costs are not easily quantifiable and affect areas of our lives to which we have traditionally given little thought. There is a widespread recognition today that the quality of our lives is being degraded at the same time that our standard of living is increasing. There is a recognition that we are beset with an environmental crisis that threatens our enjoyment of life, our health and safety, and even our very survival. Yet there is no widespread recognition of the steps we must take, as a society, to meet this environmental crisis and to make ecology and economic growth compatible.

Whenever a crisis of any type suddenly becomes the focus of public attention, the natural human reaction seems to be a frantic search for a simple explanation, a scapegoat upon whom the crisis can be blamed. And so it has been with the environmental crisis. Industry has been denounced as greedy and selfish; consumers have been denounced as greedy, selfish and stupid. Not content to blame one another, we have even begun to blame our whole society and culture: our values, our social system, and our naive faith in the benevolence of science have all been criticized and shaken.

Each of these factors may be partially responsible for the environmental crisis, but focusing on them tends to obscure the central problem. That problem, I submit, is ignorance: ignorance of the nature of the human ecosystem, and ignorance of fashion in which human activities tend to stabilize or upset that ecosystem. Because we have not understood this ecosystem and its importance, we have not made a serious attempt to insure that new developments within our civilization are compatible with the maintenance and enhancement of environmental quality. And so, in blissful ignorance, we have gone about introducing new technology without any regard to values other than the economic benefits that such technology produces. That other values—social and environmental values particularly—ought to be considered, that these values may not be in complete harmony with economic values and that technological alternatives more consistent with these values might have been found, has not occurred to us until relatively recently.

Most environmental programs born in this current period of environmental concern basically aim at finding cures for environmental ills. This is costly both in tax dollars and in the disruption of settled patterns of industrial production and community organization—and it is inefficient, since no "cure" can be attempted until the "symptoms" have become obvious and acute. In addition, we are always confronted with the nagging fear that we may be creating new environmental problems faster than we are curing the old ones.

Fortunately, there is an alternative to this "curative" effort, although it is not a complete alternative and although it will not be simple. That alternative is "preventive" environmental action—the discovery and solution of environmental problems before they occur. This is the alternative represented by the Commercial Technology Assessment Act of 1970.

The Commercial Technology Assessment Act is designed to facilitate preventive environmental action by increasing our knowledge of the human ecosystem and by providing for an assessment of the impact of new technology on that ecosystem before the technology is introduced. The Commission named in this act will fulfill this function not only by gathering environmental information and evaluating new technologies in terms of that information—along with social and economic criteria—but also by disseminating its information and assessments to the Government, to industry, and to the public at large. This assessment/dissemination process will enable all those who promote or utilize, and those who will be affected by new technology, to make a determination about the desirability of that technology without waiting until after it has been implemented and its impact become apparent through actual environmental consequences.

EXPERIENCE OF THE SUBCOMMITTEE ON ENERGY, NATURAL RESOURCES, AND THE ENVIRONMENT

Mr. President, the reasoning I have just laid out results from the experiences that the Senator from Michigan and I have had throughout the current environmental crisis, but particularly from our experiences on the Commerce Committee's Subcommittee on Energy, Natural Resources, and the Environment. We have learned that every new technological development can be expected to have an impact on the environment. And we have learned that up until now, very little has been done to determine in advance what that impact may be and what alternative technological developments—perhaps with more benign, environmental impact—might be utilized to accomplish the same objectives. In other words, we have seen repeatedly that by the time the environmental impact of most technological developments has been assessed, the environment has already been damaged and the technology has become economically "indispensable." And in those rare instances where the environmental impact of new technology has been assessed in the early stages of its promotion or use, that assessment has not been readily available to those decisionmaking bodies—private and governmental—that must cope with implementation of the technology and the consequences that flow from that implementation.

It is not difficult to provide an example of the critical importance of assessing new technology before it is implemented. In recent hearings of the subcommittee, for example, we have examined a once-obscure but now-famous herbicide known as 2,4,5-T. This chemical is such an effective defoliant that it has achieved tremendously widespread military use in Vietnam and widespread use here in the United States for both commercial and non-commercial activities.

Laboratory tests have recently demonstrated, however, that 2,4,5,-T causes several fetal malformation or spontaneous abortion in female rats. There is no reason to suspect that 2,4,5,-T is any less dangerous to human beings. Yet by the time use of this chemical is discontinued, literally millions of South Vietnamese and Americans will have ingested some quantity of it.

What the impact of 2,4,5,-T will be on human life is not known, but it is obvious that the tremendous risk we have taken with this chemical might have been avoided altogether had tests been

run on it before it was first used. This incident demonstrates vividly that introducing new technological developments without a prior determination of their impacts is a form of environmental Russian roulette. We should not have to wait for some disaster, either to humans or to laboratory animals, before searching for technological alternatives or before deciding to abandon a particular technology altogether. To do so is, at best, unfair to those industries whose product lines may suddenly be disrupted, and at worst, unsound from the point of view of human health and safety.

RELATIONSHIP WITH WORLD ENVIRONMENTAL INSTITUTE

I might add, somewhat more than parenthetically, that the Commission created by this bill and the data bank included therein will be an important element in coordinating U.S. environmental policy and information with that developed by international organizations. As the Senate knows, more than 40 Senators have cosponsored my legislation—Senate Resolution 399—aimed at creating a similar environmental data bank at an international level. Whether or not a global authority is established along the lines of the World Environmental Institute in Senate Resolution 399, it is obvious to anyone familiar with contemporary scientific thought that some form of global environmental agency will be created. Work on the nature and functions of this global agency is in progress here in the United States, in the United Nations, and in the industrialized nations throughout the world, at both governmental and nongovernmental levels. This agency, regardless of its other functions, will have an international environmental data bank, and coordination of the flow of environmental information between the United States and the global agency will necessitate a centralized data bank here as well.

For all of these reasons, then, and for other reasons that the Senator from Michigan and I will elaborate upon at length in future remarks, the Commercial Technology Assessment Act of 1970 is a critically important piece of legislation. I hope that Senators, as well as scientists and other interested individuals, will not hesitate to call upon me or the Senator from Michigan to discuss this matter further.

Mr. President, I ask unanimous consent that the legislation I am introducing be referred to the Committee on Commerce. I also ask unanimous consent that the legislation be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. ALLOTT). The bill will be received and by unanimous consent referred to the Committee on Commerce; and, without objection, the bill will be printed in the RECORD.

The bill (S. 4044) to establish an independent commission to evaluate and assess developments in the fields of commerce and technology and to accumulate and disseminate data relevant thereto, introduced by Mr. MAGNUSON, for himself and Mr. HART, was received, read twice by its title, referred to the Committee on Commerce by unanimous consent, and ordered to be printed in the RECORD, as follows:

S. 4044

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 "Commercial Technology Assessment Act of 1970".

DECLARATION OF POLICY AND PURPOSES

SEC. 2. It is hereby declared to be the policy of the United States (1) to consider the long range effects and extent of the influence of existing and new commercial technology on our nation's economic and social goals and on its environmental quality; (2) to develop, encourage, and maintain a capability to undertake independent research and timely analysis so as to provide early warning to all branches of government and to the general public of environmental hazards and economic and social costs; (3) to undertake appropriate technological assessments prior to enactment of new legislation or funding of new programs where resulting technology might impinge on our national social and economic goals, or threaten health, safety, or environmental quality, and to identify alternatives to such technological developments or new legislation or regulation of technology; and (4) bearing in mind the inter-connection between developing technology and our concern for the preservation of environmental quality, to assure a systematic and thorough collection of data relating to the environment.

FUNCTIONS OF COMMISSION

SEC. 3. (a) There is hereby established, for a period of 15 years from the effective date of this Act, the Independent Technology Assessment and Environmental Data Collection Commission (hereinafter referred to as the "Commission").

(b) It shall be a function of the Commission to serve as a central national depository of all information, knowledge, and data relating to the environment. In order to carry out such function it shall be the duty of the Commission to collect and receive for deposit all such information, knowledge, and data. Such information shall be collected and received from both national and international sources, and the President is authorized to enter into such treaties and agreements with other nations, with the United Nations, and with other international oranizations as may be necessary to collect and receive such information, knowledge, and data from international sources.

(c) The head of each department, agency, or instrumentality in the Executive Branch of the Government shall supply to the Commission all information, knowledge, and data on the environment which such department, agency, or instrumentality may have as a result of its operations. Such information, knowledge, and data shall be supplied to the Commission as soon as possible after it becomes known to such department, agency, or instrumentality.

(d) In the administration of all Federal programs resulting in financial assistance to any foreign nation or to any State, political subdivision, or other public or private entity, and in all contracts in which the United States is a party, the head of the department, agency, or instrumentality administering such program, or entering into such contract, shall take such action as may be necessary to insure that all information, knowledge, and data on the environment which either directly or indirectly results from federal financial assistance or contract will, as soon as possible after it becomes known, be made available to the Commission.

(e) The Commission shall in addition, have the responsibility to—

(1) review and assess, to the extent possible, policies, plans, and programs of industrial enterprises and of all departments and agencies of the United States and identify inadvertent consequences of technology generated to fulfill those policies, plans, and programs;

(2) seek alternative benign technological methods of implementing such policies, plans, and programs;

(3) provide prompt reports to the President and the Congress, warning of hazards and advising of findings;

(4) take initiatives for similar studies in anticipation of such policies or programs;

(5) make recommendations as to research, regulation, or environmental monitoring necessary to protect health, safety, and environmental quality from unwanted effects of new technology;

(6) initiate research as required in support of Commission assessments; and

(7) serve as an expert witness before the Congress, administrative agencies, and the courts in their inquiries related to social management of technology, and make policy recommendations, when requested, to all branches and agencies of the Government.

(f) The information, knowledge, and data acquired by the Commission, and its services in carrying out the functions outlined herein, shall be made available

(1) to all branches and agencies of the Government and to all States and political subdivisions thereof on request without charge except that, in any case where the Commission determines that the service requested is substantial, the Commission may require payment of such fees and charges as it determines necessary to recover all, or any part, of the cost of providing such service, and

(2) to private persons and entities upon payment of such fees and charges as the Commission establishes as necessary to recover the cost of providing such services and subject to such terms and conditions as the Commission determines necessary to protect the interests of the United States.

OPERATIONS OF THE COMMISSION

SEC. 4. (2) In carrying out its duties, the Commission shall establish and maintain such facilities as may be necessary, including, but not limited to, buildings, computers, and data processing and other equipment. The principal headquarters of the Commission shall be located within the District of Columbia. The head of each department, agency, and instrumentality in the Executive Branch of the Government shall, to the fullest extent possible, permit the Commission to use, without reimbursement, personnel, facilities, computers, data processing, and other equipment within such department, agency, or instrumentality in carrying out its functions under this act, and, to the fullest extent possible, such computers, data processing and other equipment shall be made compatible with all others in, and available for use by, the Commission.

(b) The Commission may employ a staff to fulfill the functions set forth herein.

(c) The Commission may enter into contracts for technological assessment necessary to carry out the purposes of this Act.

(d) The Commission may employ consultants from any of the fields of science, engineering, law, or other professions as needed to assist in technology assessment, provided they are not in conflict of interest.

COMMISSION MEMBERSHIP AND BYLAWS

SEC. 5. The initial members of the Commission shall be the following persons:

The person named first above shall serve as acting chairman.

(b) The initial members shall meet at the call of the Acting Chairman within one month after the effective date of this Act. At that meeting the initial members shall adopt bylaws of the Commission in conformity with the provisions of this Act to carry into effect the purposes of the Commission. Such bylaws shall—

(1) fix the number of the membership of the permanent Commission;

(2) determine the identity of the persons who shall constitute such membership, and the identity of the permanent Chairman thereof;

(3) provide that each permanent member of the Commission shall serve for the duration of the existance of the Commission unless he either resigns, becomes incapacitated or dies;

(4) provide for the designation of successors to such persons in the event that vacancies occur in the membership of the Commission;

(5) provide for the calling of periodical and special meetings of the Commission;

(6) provide for procedures by which it shall be determined which technologies shall be assessed and in what priorities; and

(7) provide for the performance of all other functions of the Commission in conformity with the provisions of this Act and policy as established by the Commission.

(c) A majority of the Commission shall constitute a quorum. A vacancy in the membership of the Commission shall not impair the power of the remaining members thereof to perform the functions thereof.

(d) The acting and permanent chairman of the Commission shall serve as the executive officer of the Commission.

(e) Each member of the Commission shall be compensated at the level provided for GS–18 in title 5 of the United States Code.

AUTHORIZATION

SEC. 6. There are hereby authorized to be appropriated such sums as may be needed to carry out this Act, but sums appropriated for any fiscal year shall not exceed $50 million.

Mr. HART. It has been a pleasure and education for me to work with the distinguished chairman of the Commerce Committee in preparing this bill for introduction. The able Senator from Washington long has played a leading role in the attempts of the Congress to reconcile our demands for expanding technology with other competing social, economic, and environmental concerns.

Tribute ought to be paid to two others who have contributed greatly to this effort and who deserve much of the credit for the ideas contained in the bill we introduced today. The distinguished Congressman from Michigan, Mr. DINGELL, whose efforts have produced so much of existing environmental legislation, has proposed the creation of an environmental data bank similar to the institution which would be created by this bill. The distinguished Representative from Connecticut, Mr. DADDARIO, has held extensive hearings in his House Subcommittee on Science, Research, and Development dealing with the concept of technology assessment. In that their ideas are so central to the theme of this bill, we want and welcome their comments on it and their suggestions for improvement.

Turning now to the purposes of our bill, they are basically to create a commission capable of performing two principal functions. The first is to serve as a central depository for all data relating to the environment. The second is to make assessments, without regulatory force, as to the desirability of current technological proposals based on evaluation of both the needs for such technologies and the degree of environmental contamination likely to result from their development.

Corresponding to these functions are two basic voids within our system which it is the purpose of this commission to fill. First of all, many of our environmental problems can be traced to a lack of timely knowledge as to the seriousness of a given pollutant. In testimony before the Commerce Subcommittee on Energy, Natural Resources, and the Environment, we have repeatedly heard witnesses bemoan the absence of any centralized clearinghouse for environmental information.

In our hearings on the effects of mercury on man and the environment it was claimed by both those responsible for the mercury pollution which occurred in Lake St. Clair and those directly affected by it that the existence of such a clearinghouse might have prevented much of the damage which occurred. Although literature had been published and events had occurred which suggested that inorganic mercury could be converted to the deadly poison known as methyl mercury, the chemical companies which deposited the pollutant into our waters were not fully aware of the problem. Had there been a source to which they might have turned to learn all that was known about the behavior and effects of this chemical, they certainly would have abandoned their practices long ago. And had they done so, Lake St. Clair might now be available and functioning as the commercial and sport fishing resource which once it was.

In a similar vein when our subcommittee examined the problems associated with use of the herbicide 2,4,5-T and related chemicals, we found again that lack of knowledge was a central problem. In the case of 2,4,5-T itself, although alarming information relating to the fetus-deforming effects of the herbicide in test animals was available as early as June of 1966, no action was taken to restrict its use until nearly 4 years later. The regulatory agencies responsible for controlling the use of pesticides, the Food and Drug Administration and the Department of Agriculture, may not have been blameless for this state of affairs. Yet it is difficult to harshly reprimand them in view of the fact that the alarming information was not made available to them until years after its discovery. The producers of this chemical also were denied access to information which might have led them to restrict their production or at least to conduct further research to clarify the situation.

It is, therefore, a major purpose of this bill to insure that when information of this sort is known by anyone anywhere in the world that every effort be made to bring it to the attention of as many people, both within and outside the Government, as possible. Considerable thought will have to be given to the mechanism by which the accumulation and dissemination of this information is handled, but I suspect that few would deny the desirability of increasing the free flow of such vital information.

The second void which it is hoped would be eliminated by the establishment of this commission relates to the biases of our existing governmental agencies. Limited missions assigned each existing institution of government, for example the promotion of agriculture, the protection of health, the expansion of nuclear energy, the purification of water. As a result there exists an agency which can evaluate new technological proposals taking into account every aspect of the problem. What appears to be needed is an institution without any innate orientation either toward technological advancement or environmental protection. It is hoped that the commission would meet this need and function.

The membership for the Commission would be selected with the goal of promoting total objectivity in its determinations. Although many of those determinations would be scientific ones, it is felt that both scientists and experts in other disciplines ought to participate. The decisions that would be entrusted to the commission would involve considerations relating to all walks of life—considerations which reflect human, philosophical, social, and economic, as well as scientific, values—and it is therefore felt that representatives from all walks of life should be among the membership.

It goes without saying that an institution responsible for determinations of such great significance must be totally apolitical in its approach to problems. In the past, charges have been leveled, both at the current and prior Administrations for politicizing issues of health, safety, and environmental quality. Whether these charges are well-founded, or not, every precaution should be taken to prevent political considerations from influencing matters which are and must be above politics. It is our conclusion that this can better be accomplished by making the selection of the commission's membership independent of the appointment process. It is therefore proposed that the membership be designated by statute for the relatively long tenure of 75 years.

Whereas this method of selection by Congress of course will not remove all political pressures from the institution, it is hoped that it will minimize them. Moreover, to the extent that a political complexion is unavoidable, it is certainly healthy for it to vary from that of the regulatory agencies of Government. One of the more important purposes of the hearings to be held on the bill will be to offer and evaluate proposals for membership. We of course welcome your suggestions on this matter.

Independence from other agencies of Government would allow the Commission to function effectively in what I believe would be one of its more significant roles, that of a witness at congressional hearings and before the courts. The desirability of an additional expert witness before congressional committees to support or refute testimony of Government and other witnesses is beyond question. As for the courts, I believe the Commission could play a valuable role in the expansion of the concept of legally enforceable environmental rights. Senator MCGOVERN and I have introduced a bill, S. 3575, the Environmental Protection Act of 1970, which would greatly facilitate the bringing of conservation suits by breaking down traditional legal barriers to the enforcement of such rights. One

of the arguments frequently raised against this concept is that courts are incompetent to question the descretion of administrative agencies in areas which are supposedly within the expertise of those agencies. Whereas I do not share that view under current conditions, it woud appear to be even less tenable in the event that courts could regularly seek the counsel of the Commission as an expert witness.

Administrative agencies designed to protect the citizen from unreasonable encroachments on his air, water, and land resources in many instances have done an insufficient job in that regard. In such cases it is essential for the citizen to have recourse to an alternative means of protection; that is, the alternative of protecting himself through the judicial process. Our judicial system is perhaps the most objective of all our existing institutions and, therefore, the most capable of providing an effective check on the workings of our bureaucratic process. It is a major purpose of the bill offered today to make that check not only objective but also highly competent.

It is my firm belief that by developing additional expertise in the area of technology and the environment and by harnessing it to the public's advantage in the manner proposed in this bill, Congress can perform a highly valuable service. The opportunity to do so is one that should be seized and acted upon quickly and decisively.

S. 4045—INTRODUCTION OF A BILL TO AUTHORIZE FEDERAL ACQUISITION OF GARNER VALLEY, CALIF.

Mr. CRANSTON. Mr. President, on behalf of my distinguished colleague from California, Senator MURPHY, and myself, I introduce for appropriate reference a bill to authorize the Secretary of Agriculture to acquire portions of the privately owned lands within Garner Valley in the San Jacinto Mountains of California.

There are approximately 10 square miles of privately held lands in Garner Valley which are entirely surrounded by the San Bernardino National Forest. While there has been some construction of summer homes and recreational facilities, the area remains largely in a natural state. Garner Valley is a natural resource of great potential for the recreational and greenbelt needs of the Los Angeles basin's enormous population. It is a mountain valley of pine and fir 4,600 feet in elevation lying within a few miles of the desert of Palm Springs to the east and within 2½ hours driving time of downtown Los Angeles on the west.

However, unless we act quickly, this potential for public use will be eliminated. There is a pending proposal to carve up 2,280 acres of the heart of the valley into a high density residential subdivision. Even if this development is halted, an action I hope the Riverside Board of Supervisors will take, the pressures on such privately held land around California population centers is inexorably growing. Those lands which should be preserved for public use must be withdrawn from the market place immediately.

There are two basic reasons for Federal acquisition of Garner Valley. The most immediate reason from the viewpoint of the Federal Government is to protect the surrounding areas of the San Bernardino National Forest. Here, as in other portions of the forest, smog from the Los Angeles Basin is killing the Jeffrey pine. The automobiles and other smog emitters of private residential development within Garner Valley could be a disastrous addition to the existing drift of polluted air blown eastward from Los Angeles and Orange Counties into the San Jacintos. The area also contains perhaps the last stand of Parry Pinyon pine, and the mountains provide a home for the rare Peninsular Bighorn sheep. Clearly we face a major problem in finding ways to alleviate the existing air pollution threat to the ecosystems of the national forest. To allow high-density development in the center of the forest would seriously aggravate the problem.

The broader reason for preserving Garner Valley in its natural state I have alluded to earlier in my remarks. Those areas of natural beauty still in their native environment should be evaluated carefully and managed according to plans which are consistent with the highest and best public interest. If after such planning and evaluation, private development appears to be the highest and best use, then I believe our land developers can make a substantial contribution to our people's well-being by building homes and recreational facilities.

But this is clearly not the case in Garner Valley. Only yesterday, the Riverside County Board of Supervisors, the body which has the final responsibility for planning and zoning this land, voted unanimously to ask the Federal Government to purchase it.

I believe our prompt response to this request, as well as an identical bill being introduced today in the House by Congressman TUNNEY with a number of other California Congressmen as cosponsors can be the turning point in the rescue of the valley and in the protection of the surrounding forest lands.

I am particularly pleased that my distinguished colleague from California, Senator MURPHY has joined me in this endeavor. His cosponsorship gives this legislation the truly bipartisan character it should have.

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

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

The bill (S. 4045) to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein within the San Bernardino National Forest, Calif., introduced by Mr. CRANSTON (for himself and Mr. MURPHY), was received, read twice by its title, referred to the Committee on Agriculture and Forestry, and ordered to be printed in the RECORD, as follows:

S. 4045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to maintain the water quality, the outstanding natural beauty, the forest ecosystem and other environmental values of the watershed area of the San Jacinto River known as the Garner Valley, within the San Bernardino National Forest, Riverside County, California, and to protect the area (including a wildlife refuge) and adjacent national forest lands from soil erosion, flooding, additional air pollution damage, overuse of forest ecological resources, and degradation of scenic values, the Secretary of Agriculture is authorized and directed to acquire such lands and interests therein within the following described areas as he deems necessary to accomplish the purposes of this Act:

Sections 3, 7, 8, 9, 10, 11, 14, 15, 16, 23, 24, 25, 26, 36, township 6 south, range 3 east;

Section 31, township 6 south, range 4 east;

Section 1, township 7 south, range 3 east;

Sections 5, 6, 7, township 7 south, range 4 east; all of San Bernardino meridian.

SEC. 2. There are hereby authorized to be appropriated such sums, not to exceed $8,500,000, as are necessary to carry out the purposes of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 2752

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Maine (Mr. MUSKIE), I ask unanimous consent that, at the next printing, the name of the junior Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of S. 2752, to promote intergovernmental cooperation in the control of site selection and construction of bulk power facilities for environmental and coordination purposes.

The PRESIDING OFFICER (Mr. ALLOTT). Without objection, it is so ordered.

S. 3876

Mr. HARRIS. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Ohio (Mr. YOUNG) be added as a cosponsor of S. 3876, to establish a National Economic Equity Board to protect the public interest in price stability and the control of inflation.

The PRESIDING OFFICER (Mr. ALLOTT). Without objection, it is so ordered.

S. 3962

Mr. METCALF. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Wisconsin (Mr. PROXMIRE) be added as a cosponsor of S. 3962, to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act.

The PRESIDING OFFICER. (Mr. PEARSON). Without objection, it is so ordered.

AUTHORIZATION OF APPROPRIATIONS DURING FISCAL YEAR 1971 FOR PROCUREMENT OF AIRCRAFT, MISSILES, NAVAL VESSELS, AND TRACKED COMBAT VEHICLES—AMENDMENT

AMENDMENT NO. 754

Mr. PROXMIRE. Mr. President, on May 5, I introduced Senate Resolution 401 calling for an immediate end to

sending draftees to South Vietnam and Cambodia. Since that time, Senators GAYLORD NELSON and HAROLD HUGHES have introduced additional legislation on this subject. Therefore, today, on behalf of Senators NELSON, HUGHES, and myself, I am submitting an amendment to the fiscal year 1971 military authorizations bill (H.R. 17123) to achieve the purpose we all seek: an end to our sending draftees to fight against their will in Southeast Asia.

The Proxmire-Nelson-Hughes amendment will provide that after the date of enactment of the military authorizations bill, no funds may be expended for the purpose of sending draftees to South Vietnam, Cambodia, or Laos, unless specifically authorized by Congress at a later time.

Mr. President, an all-volunteer armed force in Southeast Asia is now possible. Recent events have led me to this conclusion.

On April 20, President Nixon announced the withdrawal of an additional 150,000 troops from Southeast Asia to be completed during the spring of next year. This will bring a total reduction of 265,500 men in our Armed Forces in Southeast Asia below the level that existed when the President took office 15 months ago. By mid-1971, therefore, according to the Pentagon our troop strength will total 284,000, or approximately half of what it once was. I think it is reasonable to assume that volunteers can now take on the full burden of our obligation to South Vietnam. As the President said on April 20:

> We can now say with confidence that the South Vietnamese can develop the capability for their own defense. We can say with confidence that all American combat forces can and will be withdrawn.

President Nixon's April 23 message to Congress on ending the draft lends further support to my contention that an all-volunteer force in Southeast Asia is now feasible. The President proposed that in order to increase voluntary enlistment in the Armed Forces, two major steps were necessary. First, the pay for servicemen—particularly in their first 2 years of service—should be increased. Second, programs designed to increase enlistments and to improve the conditions of military service should be initiated.

There can be little doubt that the starting salary of an enlisted man in our Armed Forces—presently less than $1,500 a year—is a disincentive to voluntary induction. Now that the President has approved a 6-percent across-the-board pay increase for Federal employees, the pay of servicemen will be raised by $1.2 billion a year. In addition, he has proposed an additional 20-percent increase for enlisted men with less than 2 years of service, to be effective January 1, 1971; and he has recommended that an additional $2 billion for added pay and other benefits—especially for those serving their first 2 years—be included in the fiscal 1972 budget. These acts will greatly help to solve the problem.

President Nixon has also directed the Secretary of Defense to give high priority to the expansion of programs designed to increase enlistments and retentions in the service and to review policies and practices of the military, to give new emphasis to recognition of the individual needs, aspirations, and capabilities of all service personnel.

If the Secretary of Defense decides to expand programs involved with recruiting volunteers, he should be pleasantly surprised. According to the President's Commission on an All-Volunteer Army, headed by former Secretary of Defense Thomas Gates:

> Studies indicate that a relatively small increase in recruiting expenditures would produce as much as a 10 to 20 percent rise in enlistment rates.
>
> By increasing the pay and benefits of servicemen, improving conditions of service, and using other recruitment incentives and techniques, the President hopes to increase enlistment in the Armed Forces, thus paving the way for an all-volunteer army. I believe that the measures proposed by the Preident will make military service more desirable to young men. They will increase substantially the number of men that will be willing to volunteer for active military service. They will make an all-volunteer armed force in Vietnam or in Cambodia possible.
>
> The question of whether or not there will be enough volunteers available for duty in Vietnam or in Cambodia is a legitimate one. I believe, however, that the facts point to the conclusion that there will be.
>
> Last year 283,575 men were drafted. Of this total, 95 percent were inducted into the Army. Latest Army figures reveal that of the 302,000 Army personnel now serving in South Vietnam or Cambodia, approximately 115,000 are draftees. While this figure represents over a third of the Army servicemen there, it is nevertheless only 9 percent of the 1.4 million men now serving in the U.S. Army. The total of 265,000 men that the President has announced will be withdrawn by next spring is double the 115,000 Army draftees serving in those countries.
>
> Our overall military strength today, including Army, Air Force, Navy, and Marine personnel, totals 3.1 million men. Of these men, 424,700, or 13 percent, are presently serving in South Vietnam or Cambodia. Draftees in those nations now comprise less than 4 percent of the 3.1 million total. Surely no one can claim there is any hardship in not sending any more draftees to Southeast Asia to replace the 115,000 or fewer draftees now there.
>
> What many of us fail to realize is that of the 6 million men who have served in the military during the Vietnam war, 75 percent have been volunteers, only the remaining 25 percent have been draftees. The Gates Commission has stated:
>
> In recent years about 500,000 men a year have volunteered for military service. Although some of these volunteered only because of the threat of the draft, the best estimates are that at least half—250,000—are "true volunteers." Such men would have volunteered in spite of an entry pay that is roughly 60 percent of the amount that men of their age, education and training could earn in civilian life.
>
> The often ignored fact, therefore, is that our present armed forces are made up predominately of volunteers. All those men who have more than four years of service—33 percent of the total—are true volunteers; and so are at least a third of those with fewer than four years of service.

The Commission went on to say:

> The majority of men serving today are volunteers. And many who are now conscripted would volunteer once improvements were made in pay and other conditions of service.

I am convinced that the small percentage of men now serving in Vietnam or in Cambodia involuntarily can be replaced by volunteers. The vacancy left by these men would not be difficult to fill. As President Nixon continues to reduce our troop strength in Vietnam, fewer men will be needed; as his pay increases and improvements of service conditions go into effect, more men will volunteer.

There is still another reason, again the result of recent events, that has convinced me of the need for ending the practice of sending draftees to Southeast Asia. I think that the tragic events we have had on our college campuses throughout this country are in very large part the result of the fact that young people are being drafted and sent to Vietnam against their will, and it could happen to any one of them, as they know.

In a recent article entitled "Draft Sired Youth Revolt," by author Samuel Lubell, the close connection between campus unrest, the draft, and the war was clearly shown. Lubell wrote:

> With the draft, if ever a crisis could have been averted, this was it. The births after World War II warned unmistakably of the approach of a profusion of males far beyond any foreseeable military needs. In 1962, in fact, Secretary of Defense Robert McNamara ordered a study of how the draft should be changed.
>
> But the Pentagon manpower planners, reasoning that the situation was "not expected to become acute for two or three years," contented themselves with requesting mere renewal of the Selective Service Act unchanged.
>
> This failure to adjust the draft in 1963 can be said to mark the beginning of our youth crisis. The absence of draft reform would mean that when our involvement in Vietnam deepened, for every young man taken into the service, three to four times as many would feel they had to find ways of evading the draft, postponing career decisions, and building up resentments against society.
>
> Each succeeding year, as the war resistance intensified, the radicalizing process cut deeper. Each year also brought some students closer to the end of their education—and closer, perhaps, to the war they hated.

There is no doubt in my mind that by ending the practice of sending men to fight against their will in Southeast Asia, we will correct one of the most obvious injustices in the present Selective Service System. I am further convinced that students will find one of their most serious objections to the draft eliminated.

In relation to the Selective Service System, the Supreme Court's recent decision to extend the definition of a conscientious objector adds another argument for the need for an all-volunteer policy for Southeast Asia.

On June 15, the Court held that young men are now entitled to exemption from military service as conscientious objec-

tors not only on deeply held religious convictions, but also if the individual "deeply and sincerely holds the beliefs which are purely ethical or moral in source and content but which nevertheless impose upon him a duty of conscience to refrain from participating in war at any time."

It is not my purpose to argue the pros and cons of that decision. I do want to say something about its effects because it greatly strengthens the case I have been making to end the policy of sending draftees to Southeast Asia.

In interpreting the Supreme Court's decision, the head of the Selective Service System, Curtis Tarr, said that the rules he intended to publish to implement the decision would include a number of specific requirements. First, the individual would have to ask for exemption on grounds other than that his objection was based merely on his personal moral code. He would be required to prove that he had consulted wise men in coming to his decision. Second, he would have to show that he held a systematic belief. He would have to prove that he had had some kind of rigorous training in order to prove his sincerity. As James Reston of the New York Times wrote:

> But the hard fact is that the Supreme Court's decision, obviously designed to be fair and strike a balance between religious and ethical objectors to the war, is unfair to the poor.
>
> The sons of the rich and middle class in America can now appeal to the Supreme Court's decision for relief. As a matter of fact they can flood the courts with appeals and even threaten the whole Selective Service system, but the sons of the poor are now in even more trouble than they were before. They don't have the money to hire lawyers. They don't have the education to prove that they went through a rigorous system of religious training, or that they followed the counsel of what the Director of Selective Service calls "wise men."

One of the major objections to the draft today is that it is so grossly unfair to the poor, the black, and the uneducated. The interpretation of the Supreme Court decision by Mr. Tarr compounds the unfairness and the inequities of the draft. That decision is, therefore, another reason, and a major one, why the amendment that Senators NELSON, HUGHES, and I have offered today should be adopted by the Senate and signed into law.

The President's message to Congress on ending the draft, the withdrawal of troops from Southeast Asia, and the pay increases for military personnel—both those in effect and proposed—make it feasible for the United States to fulfill its obligations in that area of the world by an all-volunteer force. The connection between campus unrest, the war, and the inequities in the present selective service system lend an urgency to this proposal.

To stop sending draftees to Southeast Asia is not only feasible, and urgent, I also believe it is right. Not only is this an undeclared war, but the draftee has borne an unfair proportion of the fighting burden.

I think this contention can best be seen in the startling fact that whereas draftees in Southeast Asia make up only one-fourth of our entire troop strength there, and 40 percent of the Army enlisted men, they suffer over one-half of the combat deaths. It is evident, then, that a disproportionate amount of the combat burden is being assumed by the draftee.

The probability of a draftee being assigned to a combat infantry company is increased by the fact that the regular soldier has first choice for available support assignments. Because of that and because about 10 men outside the fighting zones are needed to support one soldier in action, a high proportion of the draftees end up in combat units.

In his message to the Congress on ending the draft, President Nixon stated:

> This nation has a right to expect that the responsibility for national defense will be shared equally and consistently by all segments of our society.
>
> This "basic principle," as the President referred to it, is not now carried out by the draft. It is not carried into practice in Vietnam or in Cambodia. The simple fact is that the responsibility of our national defense within our Armed Forces is not shared equally. Some men must go while others stay at home.
>
> When a nation is at war, whether it is declared or undeclared, there are two means of sharing the burden of danger: either all must go or only those who volunteer should go. Especially in a limited war, the former alternative is not a rational one; the latter choice is practical only in exceptional cases. Because of the gross inequities in the draft and the President's announcements on troop withdrawals, Vietnam and Cambodia can be such a case. Under the circumstances, an all-volunteer armed force in Vietnam and Cambodia is the most equitable means of deciding who should, and who should not, go to serve in those countries. The desirability of pursuing such a course is clear.

Mr. President, I am convinced that our national interest will be better served by an all-volunteer armed force in Southeast Asia, made up of those men who volunteer for enlistment and those draftees who volunteer for duty in those nations, than by our present mixed contingent of volunteers and draftees, some of whom are in South Vietnam and Cambodia against their will. An all-volunteer armed force in Southeast Asia would not endanger our national security, and I am confident that it would have a valuable effect on the military as well as the rest of the Nation.

Mr. President, I submit the Proxmire-Nelson-Hughes amendment to the fiscal 1971 military authorizations bill and ask that it be referred to the appropriate committee.

The ACTING PRESIDENT pro tempore (Mr. METCALF). The amendment will be received and printed, and will be appropriately referred.

The amendment (No. 574) was referred to the Committee on Armed Services.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 608

Mr. McGOVERN. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from New Jersey (Mr. WILLIAMS) be added as a cosponsor of Amendment No. 609 to H.R. 17123, the military procurement authorization bill.

The VICE PRESIDENT. Without objection, it is so ordered.

AMENDMENT NO. 739

Mr. BYRD of West Virginia. Mr. President, on behalf of the majority leader, I ask unanimous consent that the name of the Senator from New Mexico (Mr. MONTOYA) be added as a cosponsor of Amendment No. 739 to the postal reform bill.

The PRESIDING OFFICER (Mr. EAGLETON). Without objection, it is so ordered.

ADDITIONAL STATEMENTS OF SENATORS

GROWING DEMAND FOR RATIFICATION OF EQUALITY FOR WOMEN TREATY

Mr. PROXMIRE. Mr. President, in recent months there has been a growing demand for the full recognition of the equality of women. Much of this activity has centered around giving women the same employment rights and opportunities as those open to men. Women are demanding equal pay scales and advancement opportunities. Most important, the women are winning some notable victories.

This morning the Washington Post published a story by Margaret Crimmins which reported additional evidence that women will no longer tolerate unfair treatment. The article reports that the National Organization of Women—NOW—has organized a women's Strike for Equality Day to take place on August 26. As further evidence of support for the ratification of the Convention on Equal Rights for Women, 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:

DRUM-BEATING FOR WOMEN'S STRIKE

(By Margaret Crimmins)

NEW YORK—"It's like a tribal drum—it's beating all over the country," chortled NOW (National Organization for Women) founder Betty Friedan after today's press conference announcing details of the women's Strike for Equality Day called for Aug. 26.

Mrs. Friedan, author of "The Feminine Mystique," said women in Boston plan to distribute 4,000 cans of contraceptive foam on the Boston Common and Buffalo, N.Y., women are saying they won't iron on that day, which marks the 50th anniversary of the amendment giving women the vote.

"We want women to get ideas from others and do their own thing, wherever they see a need for equality. Obviously, it's different for a telephone operator than for a college professor," said Mrs. Friedan.

A group of college students, she said, is planning to "use magic markers to scrawl certain facts of life on their bedsheets."

Mrs. Friedan in a pink mini dress and, unlike some women's liberation members, giving in to lipstick and eyeshadow, stressed that the strike is not just for NOW members.

"We're going to bring babies for a baby-in to sit on the laps of city fathers to show the need for child care centers in New York."

Mrs. Friedan, head of NOW's advisory board, listed three major objectives for the strike:

Free abortions on demand in every state.

24-hour child care centers under control of parents.

True equality in education and employment.

Karen DeCrow of Syracuse, N.Y., one of the plaintiffs in the case against McSorley's saloon (an all-male bar in which women won seating) said friends in Finland are planning projects to "support their American sisters."

"Freedom trash cans will be set up all over the country, so that women can bring items that oppress, like aprons, curlers and hairpins."

Mrs. DeCrow, a married law student at Syracuse University, said high school students plan to picket counseling centers and college students will march on religious headquarters which refuse to ordain women.

Bella Abzug, recent winner of the Democratic nomination for Congress in New York's 19th Congressional District, said: "It will be a significant day in the total sense, for all people seeking humanity."

THE NEED FOR TOLERANCE

Mr. FULBRIGHT. Mr. President, last Sunday's Washington Post contained an arresting headline to a profoundly interesting article written by Robert Yoakum. The headline was, "What if We Suddenly Went Sane?"

What, indeed, would happen to the human race—to our world of warfare, destruction, and death—if we suddenly came to our senses and acted rationally and in our own interests?

It is the faint hope that somehow, some day, we may "go sane" that keeps most of the human race struggling against all the evidence that it is not likely to do so.

It is an interesting article, and I ask unanimous consent to have it printed in the RECORD.

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

WHAT IF WE SUDDENLY WENT SANE?

(By Robert Yoakum)

"The climate is political," wrote E. M. Forster about his book 'Two Cheers for Democracy,' "and the conclusion . . . is that, though we cannot expect to love one another, we must learn to put up with one another. Otherwise we shall all of us perish."

If salvation should depend on how many people got that message, our chances would be slim. Although the London Times gave three columns to the writer when he died this spring at the age of 91, few people either knew or cared. Little general attention was paid to Forster's life and death. One British paper devoted one of its few lines to the fact that "one of his public appearances was at the Old Bailey for the 'Lady Chatterly's Lover' case."

Thus the messages Forster left behind will remain unfamiliar to most of us.

Will it ever be otherwise? Don't count on it, says the voice from the grave. "No millennium seems likely to descend on humanity," he wrote in 1939. "No better and stronger League of Nations will be instituted; no form of Christianity and no alternative to Christianity will bring peace to the world or integrity to the individual; no 'change of heart' will occur.

But what if . . . ? What if suddenly, inexplicably, joyously, a change of heart *should* occur? From Forster's 1939 essay "What I Believe," let's put his words into the mouths of today's thinkers and doers. Hang on, please.

Billy Graham, speaking tonight at the Ethical Culture Society, said: "Faith, to my mind, is a stiffening process, a sort of mental starch, which ought to be applied as sparingly as possible. I dislike the stuff. I do not believe in it, for its own sake, at all. Herein I probably differ from most people, who believe in Belief, and are only sorry they cannot swallow even more than they do. My lawgivers are Erasmus and Montaigne, not Moses and St. Paul. My temple stands not upon Mt. Moriah but in that Elysian Field where even the immoral are admitted. My motto is: 'Lord, I disbelieve—help Thou my unbelief.'"

Chairman Mao was interrupted by cheers, especially from the Soviet delegation, when he said: "Hero worship is a dangerous vice, and one of the minor merits of a democracy is that it does not encourage it, or produce that unmanageable type of citizen known as the Great Man. It produces instead different kinds of small men—a much finer achievement . . ."

Vice President Agnew then told the applauding newspaper editors: "Democracy has another merit. It allows criticism, and if there is not public criticism there are bound to be hushed-up scandals. That is why I believe in the Press, despite all its lies and vulgarity."

In a joint press release, the Minutemen and Weathermen said they realized "that all society rests upon force. But all the great creative actions, all the decent human relations, occur during the intervals when force has not managed to come to the front. These intervals are what matter."

The statement was read into the Congressional Record by Sen. Strom Thurmond, who added: "Tolerance, good temper and sympathy—they are what matters really, and if the human race is not to collapse, they must come to the front before long."

"I hate the idea of causes," Premier Castro said in his speech before the United Fruit Co. annual meeting, "and if I had to choose between betraying my country and betraying my friend, I hope I should have the guts to betray my country . . . Love and loyalty to an individual can run counter to the claims of the State. When they do—down with the State . . ."

Watchtower magazine published an interview with the Rev. Norman Vincent Peale, who said: "I cannot believe that Christianity will ever cope with the present worldwide mess, and I think that such influence as it retains in modern society is due to the money behind it, rather than to its spiritual appeal. It was a spiritual force once, but the indwelling spirit will have to be restated if it is to calm the waters again, and probably restated in a non-Christian form."

"Democracy is . . . less hateful than other contemporary forms of government, and to that extent it deserves our support." These were the words with which First Secretary Brezhnev concluded his election campaign against seven rival candidates. "It does start from the assumption that the individual is important, and that all types are needed to make a civilization. It does not divide its citizens into the bossers and the bossed—as an efficiency-type regime tends to do."

"I believe in aristocracy, though," said William Buckley, "if that is the right word, and if a democrat may use it. Not an aristocracy of power, based upon rank and influence, but an aristocracy of the sensitive, the considerate and the plucky. Its members are to be found in all nations and classes, and all through the ages, and there is a secret understanding between them when they meet. They represent the true human tradition, the one permanent victory of our queer race over cruelty and chaos."

The cast of "Hair" and the nation's largest hippie commune issued a joint tribute today to the late author E. M. Forster, "although he was more than 60 years over 30 when he died." They selected the following passage from a 1941 essay on tolerance as the reason for their gesture:

"Love is a great force in private life; it is indeed the greatest of all things: but love in public affairs does not work. It has been tried again and again: by the Christian civilizations of the Middle Ages, and also by the French Revolution, a secular movement which reasserted the Brotherhood of Man. And it has always failed. The idea that nations should love one another, or that business concerns or marketing boards should love one another, or that a man in Portugal should love a man in Peru of whom he has never heard—it is absurd, unreal, dangerous. It leads us into perilous and vague sentimentalism. . . .

"The fact is we can only love what we know personally. And we cannot know much. In public affairs, in the rebuilding of civilization, something much less dramatic and emotional is needed—namely, tolerance. Tolerance is a very dull virtue. It is boring. Unlike love, it has always had a bad press. It is negative. It merely means putting up with people, being able to stand things. No one has ever written an ode to tolerance, or raised a statue to her. Yet . . . this is the sound state of mind which we are looking for. This is the only force which will enable different races and classes and interests to settle down together . . .

"If you don't like people, put up with them as well as you can. Don't try to love them: you can't, you'll only strain yourself. But try to tolerate them. On the basis of that tolerance, a civilized future may be built."

CORRECTION OF ANNOUNCEMENTS ON VOTES

Mr. PEARSON. Mr. President, because of the 5:00 p.m. late sessions in the Senate for the past several days and because of previous commitments which had to be kept on my part, I have been necessarily absent from the Senate when 11 record votes were taken.

Mr. President, I would like to make my position known on these 11 yea-and-nay votes on which I am not recorded, and I ask unanimous consent that the permanent RECORD be changed to reflect the following positions on my part:

Thursday, June 25, 1970:

No. 175 legislative: Nelson amendment increasing from $30.8 million to $40.8 million funds for the Teachers Corps. If present and voting, my position would have been "nay."

No. 176 legislative: Kennedy-Case amendment adding $47.9 million for higher education, including $17.9 million for educational opportunity grants, $16 million for college work-study programs, $14 million for national defense student loans, and $28 million for grants for construction of undergraduate college facilities. Position: "yea."

No. 177 legislative: Eagleton amendment increasing by $53.6 million funds for school assistance in Federally impacted areas. Position: "yea."

No. 178 legislative: Passage of H.R. 16916, fiscal 1971 appropriations for the Office of Education. Position: "yea."

Nos. 175–177 legislative were amendments to this bill.

Friday, June 26, 1970:

No. 180 legislative: Agreement to the conference report on H.R. 15839, authorizing the disposal of 100 million pounds of tungsten from the national and supplemental stockpile. Position: "yea."

No. 181 legislative: Javits amendment providing that nothing contained in the third committee amendment—Cooper-Church amendment—to H.R. 15628, the

foreign military sales bill, barring use of funds for U.S. involvement in Cambodia after June 30, 1970, unless specifically authorized by law, be deemed to impugn the constitutional powers of the Congress, including the power to declare war and to make rules for the government and regulation of the Armed Forces of the United States. Position: "yea."

Monday, June 29, 1970:

No. 185 legislative: Bellmon amendment in the nature of a substitute embodying language of House-passed postal reform measure, H.R. 17070, for Senate postal reform bill, S. 3842. Position: "yea."

No. 186 legislative: Goldwater amendment adding a new section to S. 3842 designed to eliminate the mailing of sexually oriented materials. Position: "yea."

No. 187 legislative: Curtis amendment to H.R. 17802 suspending pay raise for Members and officers of Congress until such time as the Federal budget is balanced. Position: "nay."

No. 188 legislative: Williams of Delaware amendment to H.R. 17802 putting a $205.6 billion mandatory ceiling on expenditures for fiscal year 1971 except for expenditures for (a) interest on the national debt, (b) veterans' benefits and services, and (c) payments from trust funds. Position: "yea."

No. 189 legislative: Passage of H.R. 17802, to increase the permanent public debt limit to $380 billion, and making temporary limit of $395 billion for fiscal 1971. Position: "yea."

DISTRICT REPRESENTATION: THE KENNEDY AMENDMENT

Mr. PROXMIRE. Mr. President, not long ago I addressed the Senate on the crucial need to grant representation to the District of Columbia. I reminded the Senate that we have delayed action on this simple act of fundamental justice for some 170 years. At that time I urged my colleagues to support the constitutional amendment now before the Judiciary Committee which would insure Washington full representation.

However, I feel so strongly about the need to grant Washington representation that I am willing and eager to support other approaches which would achieve the same end.

One alternate approach to granting the District representation has been proposed by the distinguished Senator from Massachusetts. Senator KENNEDY has announced his intention to offer an amendment to the Direct Election of the President Constitutional Amendment. I support Senator KENNEDY'S proposal and hope that other Senators will do likewise. We must take action to extend democracy into our Nation's Capital.

In an editorial entitled "The D.C. Rider," the New York Times on Monday joined in supporting Senator KENNEDY'S amendment proposal. The editorial makes the important point that while "riders" to bills are normally not to be heartily endorsed, we are in this case speaking of a simple act of justice which should at long last be submitted to national referendum. Mr. President, I ask unanimous consent that the editorial be printed in the RECORD.

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

THE D.C. RIDER

Ordinarily there is little to be said for legislating by "rider," that procedure whereby Congress may tack on to a bill under consideration a proposal that has little or nothing to do with the subject. Yet we favor Senator Edward Kennedy's intention to do just that in a desperate effort to achieve Congressional representation for the District of Columbia. We favor it because this simple act of justice has over and over again been thwarted by an even less excusable parliamentary device—burial in the pigeonholes of the House Rules Committee and the Senate Judiciary Committee.

The Senator from Massachusetts has clearly indicated that he will not allow his amendment to endanger passage of the resolution calling for popular election of the President, to which he proposes to link it. At any one of several points along the parliamentary way it will be easily possible to withdraw the added proposal. Since both are in the form of constitutional amendments, moreover, provision for separate consideration by the states will be written into the resolution.

As to the substance of the Kennedy amendment, there should be no doubts. Since the days when the Founding Fathers thought of the District of Columbia as a tiny Government preserve, purposely sited in a bucolic setting to avoid the political pressures of the mob, Washington has become the country's ninth city. As the Senator has pointed out, it has a population greater than that of eleven states. Together those states have a representation of 39 members in Congress.

Southerners in control of vital Congressional committees are entitled to whatever distaste they may feel for full representation of a community now predominantly black. Their power to forbid that representation should at long last be submitted to national referendum, even if it takes a "rider" to do it.

APPROPRIATIONS FOR THE NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Mr. PERCY. Mr. President, I am particularly interested in one small but important part of the appropriations bill for the Department of the Interior and Related Agencies. I refer to the recommended appropriations for the National Foundation on the Arts and the Humanities.

At the level recommended by the distinguished members of the Appropriations Committee, the sums of money we are asked to allow for the arts and humanities represents only 1 and six-tenths of the total in this bill.

While I recognize the great importance of the many functions of the Federal Government funded in other sections of the bill, I must reaffirm my belief that this Nation has still not faced up to its responsibility to the creative endeavors of mankind.

I am particularly distressed by the fact that the committee has cut back from the President's request for the arts and humanities. In his special message to the Congress on December 10, 1969, President Nixon said:

At a time of severe budget stringency, a doubling of the appropriations for the arts and humanities might seem extravagant. However, I believe that the need for a new impetus to the understanding and expression of the American idea has a compelling claim on our resources. The dollar amounts involved are comparatively small.

Indeed they are. The President asked for a $20 million program for the National Endowment for the Arts and the same amount for the Endowment for the Humanities.

The $20 million program requested for the Arts Endownment is less than the appropriated funds needed to run the Metropolitan Opera for 1 year.

This year, Gov. Nelson Rockefeller asked for—and received—an appropriation of $20 million for the operation of the New York State Arts Council alone.

During the fiscal year just past, the National Endowment for the Arts provided $2 million in grants to the official State arts agencies in 50 States and four territories. That $2 million, in turn, generated $7.5 million in State-appropriated tax revenues for the arts councils—an amazing and gratifying return of $3.50 for every Federal dollar appropriated.

We need not look only to ourselves for comparisons. In Western Europe, where government support for the arts is not only a tradition but a proud heritage, orchestras are supported with 75 percent of their total budgets from Federal aid.

In country after country, appropriations for the arts are far greater than they are in the United States—in Canada, in Great Britain, in the Netherlands, in West Germany, and in Austria.

We have been slow in coming to a recognition of the enormous value of the arts in everyday life. Now that we have done so, we should begin to assume responsibility at the Federal level which will not only make the arts available to every American who wishes to enjoy and participate in them, but will also begin to give our major arts organizations a chance to become fiscally sound for the first time.

In her testimony before the Appropriations Subcommittee, Nancy Hanks, chairman of the National Endowment for the Arts, a gifted and knowledgeable executive, made some pertinent comments regarding the needs of arts organizations, why they are growing more critical and why we must do something to assist them at this time.

Miss Hanks said:

The extraordinary popular support demonstrated by newspapers from all areas of the Nation is a reflection of the enormous growth in popularity of artistic productions and the arts in education.

Our Nation's museums continue to experience an astonishing growth in the demands placed upon them: The total number of individual visits to museums in 1969 was estimated at 560 million; 5 years ago the total was only 300 million visits. The sale of tickets for nonprofit professional arts performances has increased more than two and one half times in this same 5-year period—up from 13 million tickets sold in 1964 to over 30 million in 1969. In 1960, there were only 75 community arts councils in the United States; today they number more than 600—a dramatic demonstration of our rapidly proliferating concern with the arts at the local level.

There are many other significant "grass roots" indications. There are today approximately 300 dance companies of nonprofes-

sional status; nearly 1,400 orchestras in the semiprofessional or amateur category; 5,000 theatrical groups; between 600 and 700 opera companies—and hundreds of thousands of "Sunday painters." We have become a nation of increasing appreciation for, and eagerness to participate in, the arts.

As Miss Hanks then went on to point out, the increasing demand for the arts does not, in any way, alleviate the extraordinary pressures being placed upon our arts organizations to provide their services. We cannot say, on the one hand, that we believe the arts are an important and integral part of our educational process—and then, on the other, say that "the arts ought to support themselves." If performances of the arts are to be "self-supporting," the price of tickets will place such performances forever beyond the reach of younger people, students, the family of modest income and the culturally disadvantaged.

We do believe, in this country, that the arts are the province of all those who choose to enjoy them. We believe, too, that few things in our lives can do more to encourage individual creativity or lend dignity to our existence than the inspired performance of good music by a great artist, the enjoyment of great paintings, the appreciation of fine literature, a definitive interpretation of a great play, or the performance of a fine dance company.

But the fact is that the costs of a major orchestra or dance company or theater company are relatively fixed. It takes just so many minutes to perform a piece of chamber music—and it takes the same number of fine musicians to do so each time. The audience demand for additional productions and performances in theater or dance will require added rehearsal time and make greater demands upon production facilities already spread thin by the normal requirements of the production season.

We are asking more of our arts organizations—and our artists—today than ever before in our history, largely because we have recognized, at long last, that art is significant and relevant to the overall effort to vastly improve the quality of living we offer to Americans as a part of their birthright.

It is unreasonable, therefore, for this body—or the Federal Government—to turn its back on the modest degree of responsibility we are being asked to assume.

I have great respect for the members of the Committee on Appropriations and for the highly distinguished chairman of the subcommittee (Mr. BIBLE) and the minority members of the subcommittee. I know that the hearings on the arts and humanities were conducted with a strong sense of appreciation for the values of these two areas of endeavor in our society.

I cannot escape the feeling, however, that the Senate should not allow a false sense of economy to cut the heart out of one of the most vital programs the Federal Government now has. For that is precisely what the $1.6 million cut embodied in the committee's recommendation will do.

First, let me point out that if the Senate and the House do approve funding for the Arts Endowment at the level recommended by the Committee on Appropriations it will mean that our Nation's symphony orchestras and museums will be deprived of a substantial degree of the support they now desperately need. Not until this year has the Arts Endowment been able to contemplate a program of direct aid to either the symphonies or the museums—both of whom are constantly expanding their public service and educational activities. I feel, strongly, that such assistance is not only desirable but absolutely necessary.

Second, the cutback will mean that some vital areas of the endowment's national program might have to be curtailed. One program, for example, which has been among the most successful—the coordinated dance residency program—would be limited to expansion to only one or two States during the coming fiscal. I should point out that this program was initiated 3 years ago, on a pilot basis, in the State of Illinois and has now grown to include 22 States and more than 60 communities during fiscal 1970.

I do not deny the need for economy and for budget stringency in the Federal Government.

But I should like to remind the Senate that, during recent weeks, we have added hundreds of millions of dollars to the President's budget through enactment of appropriations beyond the levels he has asked.

In this case, while it might seem that economizing is easy—who, after all, would care if a million dollars is lost for the arts?—I am convinced it could prove disastrous.

Since its creation 5 years ago, the National Foundation on the Arts and the Humanities has been forced to limp along with scarcely more than minimal funding.

The time has come for the Senate to accept its share of the responsibility for the future health of the arts in this country. In so doing, it will recognize and take as its own, the eventual renaissance of a creative, concerned, and forward-looking American republic.

TRIBUTE TO CUMMINS ENGINE AND COLUMBUS, IND.

Mr. HARTKE. Mr. President, yesterday's Wall Street Journal featured a thoughtful analysis by Harlan S. Byrne of the important benefits which Cummins Engine Co. has brought to its home community of Columbus, Ind.

The principal reason for this exceptionally constructive impact of company upon town is the enlightened leadership philosophy of Cummins' chairman of the board, Mr. J. Irwin Miller. As the reporter so aptly puts it, Mr. Miller "chooses to lead by example rather than by command." And the example he sets is one of deep commitment to the physical and spiritual betterment of what is already one of the outstanding communities of its size in the United States. To cite only two examples, Columbus now enjoys, as a result of Miller's benefactions, some of the finest architecture in America in its schools, churches, and public buildings; and it also has a championship 18-hole golf course designed by Robert Trent Jones.

This same sense of innovation and progress pervades many other areas of Columbus community life, most especially in its schools. While not solely attributable to leadership emanating from Cummins engine, there is no doubt that that leadership played a key catalytic role.

The Wall Street Journal story should be read as a case study of the finest possible relationship between a large company and the town in which it is located. I therefore 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:

CUMMINS ENGINE DRAWS PRAISE FOR THE BENEFITS IT BRINGS COLUMBUS, IND.

(By Harlan S. Byrne)

COLUMBUS, IND.—"We weren't too happy about the idea of living in a southern Indiana hick town, but after we came here and looked things over we were pleasantly surprised. You couldn't pry us out of here now."

Speaking is Henry B. Schacht, Pennsylvania-born and holder of a Harvard MBA. In 1962 he turned down offers from companies in New York and San Francisco to come to work in this city of 31,000. Mr. Schacht has more reason than most to like Columbus. At age 36 he's earning $130,000 a year as president of Cummins Engine Co., a diesel engine manufacturer and the town's biggest employer.

Nonetheless, many of his contemporaries who have moved here share his enthusiasm for the company and the community. In recent years Cummins has bolstered its management with over 100 young executives, including a dozen Harvard MBAs and experienced men lured from other companies. This infusion of talent has helped Cummins to triple its annual sales to over $400 million and to more than double its yearly profits to $18.3 million in the past decade. This year, when many companies' profits are falling, Cummins continues to show impressive gains in earnings.

EASIER SAID THAN DONE

Observers agree that Cummins' success is due in large part to its efforts to make Columbus the type of place where a cosmopolitan group of executives would like to live. This has taken some doing. Cummins has pumped some $5 million into civic improvements over the past few years, giving Columbus recreational and educational facilities that few small towns can match. At the same time, the company has tried to avoid the heavy-handedness that has turned some similar cities into "company towns."

"You have to walk a tightrope to swing the kind of weight that Cummins does in this town without clobbering everybody else in the community," says a local businessman who has no connection with Cummins.

Attracting top-notch young managers is a problem of many large companies in small cities. Most young executives head for the big cities because they feel that's where the action is. Indeed, Cummins has found it isn't too practical to recruit single men from other parts of the country because of the relative lack of social opportunities for them here.

Even some young married types apparently find life here dull. A 30-year-old former Cummins man says he and his wife returned to their native Chicago two years ago after spending a couple of years at Cummins. "There wasn't enough social life there to suit us; they rolled up the sidewalks at eight

o'clock," he says. Some Cummins people here complain that they can't go to a party without running into a lot of other Cummins people. Cummins' employees and their families make up a third of the town's population.

A YEAR IN MISSISSIPPI

In other ways, though, Cummins has strong appeal to younger executives. One attraction is its Social Action Program, headed for the past two years by James Liebig, a Yale Divinity School graduate. Mr. Liebig has no trouble getting volunteers here for a program to help black businessmen in Mississippi. Two of the volunteers recently moved to Clarksdale, Miss., with their families to work for a year in the program. While there, they get their full Cummins salary and benefits.

Similarly, Cummins has a project through which black students from Wilberforce University in Ohio work several months a year at the company to get management training. In recent years Cummins has brought a dozen blacks into its middle management.

Once young executives come to work Cummins gives them a lot of responsibility. A case in point is George Thurston, who joined the engine maker four years ago after getting an MBA from Northwestern University. Mr. Thurston, 27, now is manager of corporate cash, keeping an eye on the investment of $12 million to $15 million of the company's idle funds.

At the vice president level and above, four of the 13 posts are held by men under 40 who have been with the company only a few years.

Cummins encourages executives to pursue outside interests. Talent is freely supplied for community activities such as fund drives, and wider-ranging endeavors also are approved. Richard Hahn, a public relations man, recently was named statewide head of the Junior Chamber of Commerce; Cummins gives him one day off a week with pay to do the work the job requires. Richard B. Stoner, vice chairman, holds a variety of positions with state and national organizations, mostly unconnected with Cummins' business. He also is Democratic national committeeman from Indiana.

THE RICHEST MAN IN TOWN

The man who sets the tone for Cummins is 61-year-old J. Irwin Miller, a fourth-generation member of a family that made its fortune here in real estate, banking, electric railroads, corn starch refining and, most recently, Cummins Engine. Mr. Miller and his family control Cummins Engine, and he is chairman and chief executive officer.

Mr. Miller is held in considerable awe hereabouts—and only partly because he's the richest man in town. His personal wealth is estimated at well over $100 million, including Cummins Engine stock, an interest in Irwin Union Bank & Trust Co. here and various other investments.

Mr. Miller is a physically imposing man—tall, handsome, square-jawed. In conversation, he seems friendly and dignified, seldom acerbic and a little shy. He appears to be a model of the patriarchal businessman whose kindly leadership has kept Cummins relatively free of labor strife. (Workers at the big Columbus facilities of Cummins are represented by an independent union.)

But he also is engaged in far broader activities that have brought him a national reputation. He has been a member of several Presidential commissions, and he was the first lay president (1960–63) of the National Council of Churches. He's a director of American Telephone & Telegraph Co. and Chemical Bank of New York, and he is a trustee of the Ford Foundation.

He's active in Republican Party politics nationally but has an independent voting record. In 1963 he helped organize the civil rights march on Washington. Esquire Magazine thought so highly of him that it ran a lengthy story seriously suggesting that the Republican Party consider nominating him for the Presidency in 1968.

For all his credentials, however, Irwin Miller's role in Columbus is indirect; he chooses to lead by example rather than by command. He's aware of his potential influence in the community, of course, but he consciously submerges it. "We try to play a catalytic role rather than a determining role; we've always thought people were reasonably innovative here so whatever we might do hopefully would have some impact," he says.

Mr. Miller's credo apparently carries over to the role of Cummins executives in town politics. None of the Cummins people are on the city council and only one of the seven school board members works for Cummins.

But this doesn't mean the company lacks ways of making its wishes known. "Cummins doesn't need to have a man on the city council. I doubt if any councilman or city official would even consider antagonizing it," says one resident.

Indeed, the influence of the company and Irwin Miller is so pervasive that some city leaders feel that people here tend to want to "let Irwin do it."

THE VERY BEST COMMUNITY

"I fear that a lot of us simply want to ride in on Irwin's successes at a time when we need the help of everyone to solve some of our civic problems," says the Rev. William R. Laws Jr., pastor of the local First Presbyterian Church and moderator of the Presbyterian Church of the U.S.A.

Of the company's philosophy toward Columbus, Mr. Miller says: "We would like to see this become the very best community of its size in the country."

Cummins' beneficence is obvious to any visitor to Columbus. Among the splashiest contributions was a $1.5 million, 18-hole championship golf course designed by Robert Trent Jones, the famed golf architect, along with a handsome clubhouse designed by Chicago architect Harry Weese. Cummins donated the course, called Otter Creek, to the city in 1964.

Earlier, the company subsidized construction of a 250-acre park for Cummins' employes and guests. Attractions there include boating, fishing, swimming, miniature golf, skeet and picnic facilities.

HIRING FAMOUS ARCHITECTS

In an unusual move the Cummins Foundation, through which the company funnels much of its philanthropic contributions, has paid $1.2 million in architects' fees for new schools and other public buildings here. As a result, Columbus has eight new schools of innovative design by well-known architects. Recently completed was a public library designed by I. M. Pei, architect for the John F. Kennedy Memorial Library at Harvard.

Mr. Miller's zeal for first-rate architecture wasn't confined to public buildings. Back in 1941, his family was instrumental in getting the late Eliel Saarinen to design a new First Christian Church, highlighted by a rectangular tower the height of an 18-story building. Equally eye-catching is the hexagonal North Christian Church, with a 192-foot spire, which Irwin Miller attends. The church was designed by the late Eero Saarinen, son of Eliel Saarinen and a Yale classmate of Mr. Miller's. Mr. Miller also hired Eero to design new quarters for Irwin Union Bank & Trust Co., which his family controls, and new homes for himself here and in Canada.

Mr. Miller's thinking on architect isn't unlike his approach to business or community problems. "It's shocking the way most school buildings tend to dehumanize the people who use them the most; schools ought to be exciting places," he says.

Along with a lot of striking new schools, Columbus has been quick to adopt new teaching methods and materials and now has one of the highest teacher pay scales anywhere. Clarence Robbins, superintendent of schools, says Columbus in recent years has had 500 to 600 applicants for every 90 to 100 teaching openings.

DIVERSE BACKGROUNDS

John T. Hackett, 38-year-old financial vice president and treasurer of Cummins, worried about moving here in 1964 from Cleveland, where his children went to excellent suburban schools. But he says: "I'm satisfied now that our children are getting as good an education here." He feels that in Columbus his children have an advantage in going to school with students from diverse economic and social backgrounds; in the Cleveland suburb, all the families seemed pretty much cast from the same middle-class mold.

Cultural life for Columbus residents can be diverse even if at times it takes a little doing to get to it. The city has a 10-year-old amateur Arts Guild that puts on plays, musicals and art shows. Local groups sponsor a once-a-year appearance in Columbus of the Indianapolis Symphony Orchestra and a series of Distinguished Visitors Lectures.

Broadway road shows, concerts, ballets and other attractions can be seen in Indianapolis or Bloomington (home of Indiana University), both less than an hour's drive from here. For the more venturesome, Louisville is slightly more than an hour's drive, and Cincinnati is an hour and a half away. Less than 10 miles away is Nashville, Ind., a well-known art colony and antique center.

Most types of recreation are available here. Skiing is an exception, and a local ski club sponsors trips to Michigan. Cummins employes are kept well posted on what's going on in the area. The company sends each employe a monthly entertainment guide listing recreational and cultural activities in Columbus, Bloomington, Cincinnati, Indianapolis, Louisville and other nearby areas.

Some social amenities are limited however. Many residents complain there aren't enough good places for dining out. Many newcomers here feel a big drawback is the lack of department store shopping, so they do much of their major shopping in the large cities. Better shopping will be on the way, though, if plans for a $4 million downtown shopping mall materialize. Medical services here were improved by a recently completed $9 million expansion and modernization of the city's one hospital.

SENATOR BROOKE SUPPORTS GAO INVESTIGATION OF DESTROYER CONTRACT AWARD

Mr. BROOKE. Mr. President, I wish to express my own support for the careful argument concerning the DD–963 destroyer competition which the distinguished senior Senator from Maine (Mrs. SMITH) presented yesterday. When such a massive procurement is undertaken, every effort must be made to insure not only efficiency of production in the short run, but the maintenance of an adequate defense mobilization base for the long run.

I will not comment in detail at this time upon the particular circumstances of the award of the destroyer contract to Litton Industries. However, I certainly share Senator SMITH's apprehension that concentrating this production contract in the hands of a single firm, which is already carrying the largest new ship construction backlog in the industry, is risky.

Recent experience with major defense contracts amply justifies a cautious approach to such a decision. Senator SMITH has set forth a number of questions which deserve thorough examination. Her request that the General Accounting Office investigate them promptly should be heeded.

One can understand the Navy's desire to develop specialized shipbuilding capabilities, but there is a valid basis for concern over the wisdom of the decision in the case of the DD–963. Prudence demands that we take the reasonable precautions recommended by the Senator from Maine before the Government commits itself irrevocably to the proposed procurement of these ships in a single shipyard.

AMERICA CANNOT WITHDRAW FROM THE WORLD

Mr. McGEE. Mr. President, on Sunday the Washington Star devoted a page of its editorial section to a remarkable essay by Walt Whitman Rostow which concludes that it is an illusion to suppose that America can withdraw from the world of war and chaos to search for the answer to its own problems at home alone. Our domestic problems have different and deeper roots than the international crises that swirl around us, and they must be dealt with essentially in their own terms. Mr. Rostow warns against another American withdrawal from the world; against repeating the oscillation which Tocqueville foresaw 135 years ago, when he predicted that Americans would ignore military problems until they became acute, and then they would turn to deal with them late but wholeheartedly. Our Presidents for some time, since the end of World War II, have realized that there is no place in this nuclear age for full passions to be turned toward war. Thus, we cannot and we have not, ignored military problems around the world. Nor can we afford once again to assume that posture.

Mr. President, I ask unanimous consent that Mr. Rostow's article, entitled "Why We Should Not Abandon Our Role in Asia," be printed in the RECORD.

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

WHY WE SHOULD NOT ABANDON OUR ROLE IN ASIA

(By W. W. Rostow)

The heart of the tension in contemporary America over Southeast Asia has been between the choices as seen by the presidents, on the one hand, those who came to oppose them, on the other. The presidents have seen the real choice before us as pursuing the engagement there through to stable peace versus a larger war, and quite possibly a nuclear war. The opponents of their policy in Southeast Asia argue, in effect, that American disengagement from Southeast Asia would lead to peace or to a situation in which the United States would or could passively acquiesce in safety.

There has been—and there remains—a dangerous gap between the national interest as our presidents see it—and as we have seen it as a nation at times of acute crises—and the way many Americans see it when the danger of a major shift in the balance of power in Europe and Asia is not palpable.

What is the basis for this gap?

It arises, I believe, from the nature of democracy—and, particularly, democracy in the United States. Alexis de Tocqueville stated the problem vividly a hundred and thirty-five years ago. In "Democracy in America," he described the overwhelming attractions of civil life for Americans "placed . . . in the midst of a wilderness where they have, so to speak, no neighbors. . . ." He believed "the excessive love of the whole community for quiet" would lead Americans to ignore military problems until they became acute; and then they would turn to deal with them late but wholeheartedly.

It was an awareness of what we might call Tocqueville behavior by Americans between 1916 and 1947 which led President Truman to face up to Stalin's threat in Europe before it became a purely military threat. Our presidents have understood how dangerous the Tocqueville oscillation might be in a nuclear, highly interdependent world.

And they have understood something else imposed on us by the coming of nuclear weapons. They have been conscious—in Korea and Southeast Asia, but also in the Middle East and in the Berlin and the Cuba missile crises—that danger lay not merely in a late reaction but in a wholehearted turning to war, engaging, in Tocqueville's phrase, the full "passions" of the people. There is no rational place for total war in a nuclear act.

Contrary to older American instinct, we have been trying to deter threats to the balance of power in Europe and Asia in a forehanded way and, when challenged, to use limited rather than total force.

This has been difficult for Americans, given our history and our national operating style.

It has been made more difficult by two other strands of thought and feeling at work in our domestic life:

First, a feeling that the United States is, in some sense, overcommitted or disproportionately committed on the world scene;

Second, an opinion among some that the fate of Asia does not, in fact, matter all that much to the United States.

I shall say something about each of these factors in turn.

First, the question of American overcommitment.

TAKING STOCK

After the Cuba missile crisis I took stock with some of my colleagues in the State Department of the forces which gathered strength after that historic event.

One fact was central: the fear of Moscow, rightly or wrongly, was considerably reduced, once the technique of nuclear blackmail was faced down by President Kennedy and, partially in consequence, the Sino-Soviet split became more overt and intense.

In every part of the world this reduction in tension led to an increased desire of nations to take a larger hand in shaping their own destinies. The image of a bipolar world was weakened both by Khrushchev's failure in the Caribbean and by the evident disarray of the Communist camp. There seemed to be more opportunity for old-fashioned nationalism and the nation state.

In the United States, there developed a feeling that the Communist threat had been reduced and, somehow, the world ought to be manageable with less American effort, cost and commitment.

Analyzing these trends, I concluded that the problems actually confronted demanded stronger and more effective regional cooperation, if the nations of the world were to forge a destiny increasingly independent of the major powers. If rich European nations of 50 million could not handle their problems without effective regional co-operation, how could nations of the less developed regions do so on a nationalist basis?

As for the United States, I concluded that the heart of the problem was not excessive commitment, but a sense of excessive loneliness in bearing the burdens of the world. Our actual outlays for security purposes were declining slightly in the first half of the 1960s as a proportion of GNP; but the American image was one of our carrying an unfair share of the task of maintaining order and progress in the world arena.

What is it, then, that the United States is trying to accomplish?

First, our Presidents have recognized that the American interest in avoiding domination of Europe or Asia (and, indeed, Latin America or Africa) by a potentially hostile power is an abiding interest of the United States. It is heightened, not diminished, by the nature of modern weapons and means of communication.

Second, they recognized that this negative interest is fully shared by the smaller nations of these regions. In fact, this convergence between our interest and theirs has been the underlying strength of American postwar diplomacy. The nations of Europe do not wish to be dominated by Russia or Germany or the United States. The nations of Asia do not wish to be dominated by China or Japan or Russia or the United States. The nations of Africa south of the Sahara wish to forge their destiny without the military presence or political dominance of any major external power. The wisest leaders of Latin America wish not only to keep extra-continental powers out of security affairs in this hemisphere, but they wish to build societies and a regional structure which would permit them to deal with the colossus of the north from a base of greater strength and dignity. That is the underlying political objective of the movement towards Latin American economic integration. The United States has been able to throw its weight behind regionalism in all these areas because our interest does not require that we dominate them; and because the stronger the regional organizations—so long as they are not dominated by a potentially hostile power—the more likely they are to resolve their own problems and reduce the level of American commitment and concern.

Third, the Presidents have recognized that the pace at which the United States could safely step back had to be delicately adjusted to the rise of strength and cohesiveness in the regions. They have recognized in Europe, for example, that a premature and excessive pull-out of American forces from NATO could lead not to a new and better-balanced Atlantic equilibrium but to a crisis as dangerous as—or more dangerous than—the Berlin crises of 1948–49 or 1961–62. The exercise called "Vietnamization"—if I understand it correctly—is an even more delicate exercise in shifting the balance of responsibilities in Southeast Asia in ways that would avoid collapse of the region, chaos, and a larger war.

The strategy of our moving back in degree as the strength and cohesiveness of others permit them to take a larger hand in shaping their destinies—while avoiding a collapse of the balance of power in regions of vital interest to the United States—is certainly the most subtle and difficult task of foreign policy ever undertaken by the United States.

Historically, America has performed best when it faced a palpable and acute problem —widely recognized and defined in common terms—to the solution of which it could address its full energies, talents, and resources. The First World War, once we were in it, was a problem of this kind; the Great Depression after 1933; the Second World War, after Pearl Harbor, Stalin's challenge in western and southern Europe, from 1947; the race to put a man on the moon, after the Soviet launching of the first Sputnik. These slambang affairs fitted well the national style.

Now we are trying to do something quite different. After the Second World War we moved into vacuums of power not to build an empire but because the cost of not moving in was judged, case by case, more dangerous than the reluctant acceptance of additional responsibility in a war-weakened

world. Now—a quarter century later—we are trying to manage a redistribution of responsibility in which we will do less, others will do more, without inducing major crises or chaos on the world scene. We are trying safely to withdraw—in degree—from the preponderant positions we filled.

We are trying to exploit constructively:

The gathering strength of others on the world scene;

Their desire increasingly to shape their own destiny, without being dominated by any major power, including the United States;

And the fact that abiding American interests are satisfied by an essentially negative condition—that no potentially hostile power hold the balance of power in Europe or Asia.

COMPLEX PATTERN

This is the complex pattern of policy which our government has been trying to pursue in recent years in order to reconcile abiding American interests and the widespread sense in America that we were, somehow, overcommitted or disproportionately committed in the first postwar generation.

The pursuit of this policy is obviously complicated by many forces in our domestic life: An economy subject both to rising unemployment and rising prices; an infirm balance of payments position; acute racial tension; massive tasks of urban rehabilitation; an ardent margin of the affluent young, affronted by the ugliness of war, racial inequity, and other gaps between American aspiration and performance, who have been led to believe that a quick route to the humane and decent life they seek lies in confrontation, violence, and destruction.

I cannot, evidently, deal with all these features of the domestic scene here: The reactions they have set up in our political life; and their playback effects on our ability to conduct the mature and subtle foreign policy which our interests require and to which we have been committed.

But I will say a few words about one view to which some Americans have come, in part driven by these domestic pressures: The view that the United States can safely abandon its interest in and commitments to Asia and let the forces at work there find their way to chaos or equilibrium, war or peace—without American participation.

Let me quote the words of John Gardner, whom I regard as a good friend, as well as an old and respected colleague. Anguished by the intensity of our domestic debate and the urgency of our unsolved domestic problems, he counsels abandonment of our role in Vietnam and of our peacekeeping commitments in Asia. I quote him as an eloquent and sensitive representative of a good many Americans whose views on Vietnam and Asia have changed. Here is a passage from an interview with Gardner published in the Christian Science Monitor of June 8, 1970:

Q: "What should the President do about Vietnam?"

A: "I think that if the President would set a date, a terminal date."

Q: "You're speaking about getting troops entirely out?"

A: "That is right. It would be extremely helpful. I think, if he would finally relinquish the notion that the words 'winning' or 'losing' have any relevance whatever any more with respect to Vietnam. The whole relevance of those two words is a thing of the past now.

"If he would relinquish what appears to have been his conception in his last press conference that we might conceivably be the peacekeeper in the Asian world, I think we could move expeditiously to get out of Vietnam and I think it would produce very considerable change in our national mood.

"Then I think moving vigorously on domestic priorities would be the next order of business. And the nation is ready for it. People are hungry for it. Americans are not people who want to turn their backs on their problems."

Elsewhere in this interview Gardner says: "Nothing that we could possibly be accomplishing in Southeast Asia could balance or compensate for what the war is doing to this country."

This is a solemn proposition. It ought to be discussed dispassionately, with care, since we all recognize the burdens thrown upon our national life by the war in Southeast Asia.

The proposition is that the United States should promptly withdraw its forces and commitment from Vietnam whatever the consequences may be in Asia and on the world scene.

Contrary to every conceivable political and personal interest, three American Presidents decided that the forces set in motion by such a decision risked a larger war in Asia and dangerous instability in other regions of the world. I believe no citizen taking a contrary view can, in good conscience, ignore the lines of argument that led our Presidents to this conclusion; for the risk of a larger war—quite possibly a nuclear war—should weigh heavily in the scales in assessing how much of a burden we can afford to bear at home.

I would not pretend to reconstruct fully the lines of argument which led the Presidents to this painful judgment; although in two cases I have some knowledge of their thoughts. But I would offer my own brief summary of at least some of the possible or probable costs of unconditional immediate withdrawal from commitment in Vietnam and Asia.

First, the withdrawal of American commitment from Southeast Asia would change the terms of the debate going forward within mainland China. Powerful forces are at work there to move post-Mao China toward a long delayed concentration of its energies and talents on the modernization of its life. American withdrawal would, in my view, inevitably lead Peking to exploit its new opportunities to the south. No one can predict the precise form in which a nuclear China, with huge ground forces, would exercise its power in the vacuum we would create. But I can not believe that Peking would remain passive. Indeed, it is not passive now: In its influence on Hanoi; its road-building in Laos; and its actions elsewhere.

Second, the nations of Southeast Asia, certainly as far as Singapore—quite possibly as far as Indonesia—would lose their independence or be thrown into a protracted military or quasi-military struggle which would disorient for some of them exceedingly promising paths of economic, social, and political progress.

BURMA'S ROLE

Third, Burma, in particular, would either fall under Communist domination or become the scene of an Indian-Chinese struggle; for Burma—not Tibet—is the point of critical strategic danger for the Indian sub-continent, a point made in private, with equal lucidity, by high and responsible officials of India and Pakistan.

Fourth, almost certainly Japan and India would quickly acquire nuclear weapons; and, quite possibly, the non-proliferation treaty would die elsewhere in the world as well. It is, perhaps, not generally understood that the willingness of many nations to forego the production of nuclear weapons is based on a carefully balanced calculation that ties to the United States—explicit or implicit—provide marginally greater security and less risk than going it alone on the basis of national nuclear capabilities. The policy Gardner proposes would shift that marginal calculation. An America that walked away from a treaty commitment because it could not deal with its domestic problems—after bringing into the field a half-million of its armed forces and encouraging a small ally to fight desperately for its independence—might well not be regarded as a reliable ally on such a mortal issue in Asia—or elsewhere.

Paragraph 1 of Article X of the non-proliferation treaty states: "Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country."

I believe an American withdrawal from a treaty commitment in a critical part of the world on the ground that its domestic problems did not permit it to continue to honor that treaty could well be judged an extraordinary event related to the subject matter of the non-proliferation treaty jeopardizing the supreme interests of nations which now depend upon us. We should be quite clear that, whatever public postures they may strike on one issue or another, India and Japan—as well as many others—count on our nuclear deterrent and the will—as well as the hardware—that give it meaning.

Fifth, I would put a question which every American must answer for himself, out of his knowledge of our country, its history, and its character: at home would the United States observe these consequences of its decision passively? Would it turn with energy and pride and unity to clean the air and the water, deal with ghettos and racial inequity as it read of Hue-like slaughter in Vietnam and elsewhere; of an Asia thrown into chaos or worse; of a world seized of a proliferating nuclear arms race?

And what of the effects of all this in Moscow and Cairo?

I, for one, do not believe we would remain unified and passive. I agree with Gardner that "Americans are not people who want to turn their backs on their problems."

We might repeat what I have called the Tocqueville oscillation, in a peculiarly dangerous way; but I do not believe we Americans, in the end, will turn our backs on Asia and on the world.

For what is Asia?

Asia is the place where about 60 percent of humanity now lives and will continue to live. In the year 2000, which is not so far away, Asia's population will be about ten times that of the United States—say, 3.7 billion souls.

There are some, I know, who regard Asia as primitive, in no way to be compared to Europe in potential importance to the United States. But as anyone who has recently been to Asia knows, it is a region on the march. We are all familiar with the extraordinary growth of Japan, now the third industrial power in the world and closing fast on a sluggish Soviet Union. But in South Korea and Taiwan, Thailand and Malaysia and Singapore, and in India, Pakistan, and Iran as well, the modernization of these old societies is moving forward swiftly. And Indonesia, too, is coming out of the chaos in which Sukarno left it.

CHINA STALLED

Mainland China has been virtually stalled for a decade, set back first by the failure of the Great Leap Forward and then by the Cultural Revolution. But sometime in the years ahead the great natural gifts of the Chinese on the mainland will come to be focused on the modernization of that society in more or less rational ways.

Round about the year 2000, then, we shall face across the Pacific almost 4 billion people who, by that time, will have acquired the capacity to use most of then existing technology. They will have reached—or be close to reaching—the stage of growth I have described as technological maturity.

In income per capital they will not be rich: they will average, perhaps, only about $350 per capita, the average brought down by the low starting point and heavy weight of the Indian sub-continent and mainland

China. But they will be a formidable center of power, a major factor in the kind of life Americans—that is to say, our children and grandchildren—will then lead.

Right now, I believe, the kind of Asia that will exist in the year 2000 is being determined.

It is being determined by the outcome of the debate on the mainland concerning post-Mao Chinese domestic and foreign policy.

It is being determined by the Japanese and Indian decisions on the non-proliferation treaty.

It is being determined, above all, by the growing sense of regional co-operation that has emerged since the United States honored its commitment to South Vietnam in 1965, at a time of mortal danger to Southeast Asia.

If we patiently, painfully see it through to an honorable and stable peace in Southeast Asia, there is a decent hope that the Asia that emerges will not be dominated by any single power. It could be an Asia in which the inherent weight of mainland China is balanced by the co-operative efforts of those living in the great and vital arc from Seoul and Tokyo to Karachi and Teheran—an Asia not hostile to China but offering to it no temptation to expand—an Asia to whose multilateral efforts Japan could make an enormous contribution—an Asia where nuclear proliferation did not happen, where the guarantee of the United States remained good, but whose inherent strength and co-operation permitted us to fall back to a role of even-handed partnership across the Pacific. That outcome is not assured; but it is a decent hope, because it is rooted in a political reality: the political reality that most Asians share with the United States an abiding interest that the region not be dominated by a single power.

If we do not see it through to an honorable and stable peace in Southeast Asia, we could confront a very different and dangerous constellation of power across the Pacific which would alter the whole setting of American society and its inner life and pose dangers greater than those that came upon us at Pearl Harbor.

I disagree, therefore, with John Gardner's dictum that: "Nothing that we could possibly be accomplishing in Southeast Asia could balance or compensate for what the war is doing to this country." The fate of Asia and America's long run relation to Asia is at stake; and this a very great matter indeed.

Neither as a former public servant nor as a teacher nor as a social scientist nor as a man am I insensitive to the costs of our commitment in Southeast Asia and the war in which we are still engaged.

Clearly, the war in Vietnam has contributed substantially to student unrest in the United States; but I do not believe the war is primarily responsible for the restlessness and dissatisfaction of the young; for student unrest is a global phenomenon in the developed world.

Clearly, the war has diverted substantial resources from private and public purposes; but I do not believe it is primarily responsible for the slackening in allocations to the cities for education or for the present state of racial tension. The net cost of the war in Vietnam—what we would actually save by abandoning the effort—is less than 2 percent of the GNP. The figure is declining, not rising. At a normal 4 percent growth rate it is less than half the annual increment in GNP we would have available to allocate to new private or public purposes. I regret every nickel of it, as I regret, even more, every casualty of the war. But with a GNP approaching a trillion dollars we obviously command the resources in the United States to do far more in the public sector if we manage the economy well and generate the political will to allocate those resources wisely. And while the wars in Vietnam is not irrelevant to the problem of bringing the Negro to full citizenship in our land, I do not believe for one moment that it is a critical variable.

DEEP ROOTS

The coming of stable peace in Southeast Asia would surely ease some of the strains in our domestic life; but our domestic problems have different and deeper roots and must be dealt with essentially in their own terms.

In considering our domestic life in relation to our foreign policy, I would make one further related point. Historically, in this country we have had domestic and foreign policy crises in sequence. Wilson had time to launch his New Freedom program before confronting the realities of the First World War. For good or ill—and probably for ill—Franklin Roosevelt could launch his New Deal program in an America locked into isolationism; and that program had run its course well before the outbreak of the Second World War. President Truman could face the Cold War crises of 1945–52 from a base which did not generate acute pressures for domestic innovation; he was, in fact, well out in front of his congressional support in proposing domestic legislation.

But since 1963—say, from the Civil Rights march on Washington of August and the assassination of Diem in November—our political life has been strained by simultaneous crises of an acute kind, at home and abroad. I can easily understand the instinct of Gardner and others somehow to get "abroad" off our necks so we can turn wholeheartedly to affairs at home. I believe history will record that President Johnson faced and, now, President Nixon faces, challenges of unique severity because of this convergence of domestic and foreign crises.

But history is ruthless with those who build their policies on illusion. And I believe it is an illusion to hold that America, at this time in history, can safely walk away from its commitments and interests in Asia—or in Europe or the Middle East.

I believe withdrawal to a search for the good life at home in a world of war and chaos and deepening danger is an illusion. And neither we—nor humanity at large—can afford another Tocqueville oscillation.

Despite the debate that swirls around us, I believe deep within our nation is the understanding, the strength and the will to do so.

ADDITIONAL DEATHS OF CALIFORNIANS IN SOUTHEAST ASIA

Mr. CRANSTON. Mr. President, between Friday, June 12, 1970, and Thursday, June 25, 1970, the Pentagon has notified 15 more California families of the death of a loved one in Vietnam and Southeast Asia.

Those killed:

Pfc. Jerry J. Allen, son of Mrs. Ruby R. Allen of Los Angeles.

Lt. Comdr. Jere A. Barton, husband of Mrs. Barbara J. Barton of Coronado.

Pfc. James M. Davis, son of Mr. and Mrs. Louis L. Perley, of Whittier.

Spec. Sarkis Dervishian, son of Mr. and Mrs. Gargo G. Dervishian, of Los Angeles.

Pfc. Timothy F. Fewell, son of Mr. George W. Fewell, of Portersville.

Spec. James Giles, son of Mrs. Sara Giles, of Los Angeles.

Spec. Kenneth H. Lamborn, husband of Mrs. Dianne M. Lamborn, of Colfax.

Pfc. John W. Long, Jr., son of Mr. and Mrs. John W. Long, of Salinas.

Sgt. Robert C. McAndrew, son of Mr. and Mrs. Edward F. McAndrew, of Tarzana.

Sgt. William J. McTaggart, husband of Mrs. William J. McTaggart, of Vista.

Spec. Jimmy C. Montana, husband of Mrs. Bonnie L. Montana, of Bakersfield.

WO. Charles A. Richardson, son of Lieutenant Colonel (Retired) and Mrs. Charles A. Richardson, of Atwater.

Pvt. Buster L. Scott, son of Mrs. Dona M. Scott, of Pacoima.

Pvt. Rex E. Thornley, son of Mr. and Mrs. Bobby G. LaPlant, of Bell Gardens.

Spec. Shojiro Yamashita, brother of Mrs. Irene A. Nakahara, of Berkeley.

They bring to 4,135 the total number of Californians killed in the war.

PROPOSED AMENDMENT TO THE AGREEMENT FOR COOPERATION WITH THE REPUBLIC OF INDONESIA CONCERNING CIVIL USES OF ATOMIC ENERGY

Mr. GORE. Mr. President, as chairman of the Subcommittee on Agreements for Cooperation of the Joint Committee on Atomic Energy, I wish to advise Senators that in compliance with section 123c of the Atomic Energy Act of 1954, as amended, the Atomic Energy Commission on June 10, 1970, submitted to the Joint Committee a proposed amendment to the agreement for cooperation between the Government of the United States and the Government of the Republic of Indonesia concerning civil uses of atomic energy. The Atomic Energy Act requires that such proposed amendment lie before the Joint Committee for 30 days while Congress is in session before becoming effective.

The existing agreement provides for cooperation between the two nations in research activities relative to applications of nuclear energy for civil uses. Its 10-year term is due to expire on September 20, 1970. The purpose of the proposed amendment is to extend the term of the agreement for an additional 10 years.

In addition, the provisions of the amended agreement reflect modifications to the Atomic Energy Act relative to private ownership of special nuclear materials. They also reflect current practices of the Atomic Energy Commission through inclusion of standard contract clauses being utilized in new agreements with other countries executed since entry into the original agreement with Indonesia. The amended agreement also contains provisions reflecting the transfer of safeguards responsibilities for materials, equipment, and facilities received by Indonesia under the agreement to the International Atomic Energy Agency pursuant to a trilateral agreement executed in 1967. The international agency will continue its responsibility for such safeguards with the rights of the United States being suspended during the time and to the extent that the international agency safeguards are in effect.

In keeping with the general practice of the Joint Committee, I ask unanimous consent to have printed in the RECORD, for the information of interested Members of Congress, the text of the proposed amended agreement for cooperation together with supporting correspondence.

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

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., May 20, 1970.

The PRESIDENT,
The White House.

DEAR MR. PRESIDENT: Enclosed is a proposed amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy," which has been negotiated by the Department of State and the Atomic Energy Commission pursuant to the Atomic Energy Act of 1954, as amended. With the Department's support, the Atomic Energy Commission recommends that you approve the proposed amendment, determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and authorize its execution.

The present research type of Agreement for Cooperation with Indonesia was signed on June 8, 1960, and is due to expire on September 20, 1970. The main purpose of the enclosed amendment is to extend the agreement for an additional ten years.

As is normally done in extending Agreements for Cooperation, the opportunity has been utilized to bring provisions of the current agreement with Indonesia into conformity with corresponding ones of recent agreements and amendments. For example, proposed Article I of the amendment would incorporate the comprehensive list of key terms, and their definitions, now employed in our Agreements for Cooperation, and reliance on cross-reference to definitions in the Atomic Energy Act of 1954, as amended, would be discontinued. Articles II and III would set forth in current form the cooperation which may be undertaken and the types of information which may be exchanged.

Article IV would establish a net ceiling of up to twenty-five kilograms of U–235 in enriched uranium which may be transferred to Indonesia for fueling research reactors, materials testing reactors, and reactor experiments over the life of the agreement. In recognition of the greater flexibility possible in the utilization of research reactors fueled with highly enriched uranium, this article incorporates the provision, common to our recent research type of agreements, that uranium fuel may be enriched to greater than twenty percent in U–235 if technically or economically justified for use in research reactors capable of operating with fuel loads that do not exceed eight kilograms of contained U–235. (The current agreement restricts fuel enrichment to a maximum of twenty percent.) Further, as incorporated for example in the recent Argentine, Austrian and Portuguese Agreements, the options granted to the United States to acquire special nuclear material produced in material obtained from the United States would be discontinued. The transfer, however, from Indonesia to any other nation or group of nations of special nuclear material produced in U.S.-origin material acquired by Indonesia under the bilateral would be subject to approval by the United States.

Article V would consolidate provisions of the agreement respecting transfers of various materials. The existing small quantity limitations on special nuclear material which may be transferred for other than fueling purposes would be discontinued, in accordance with our practice of a number of years regarding our research type of agreements.

Article VII would provide that either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party may make arrangements for the transfer of special nuclear material. Such transfers would be for uses specified in the agreement and would be subject to the quantity limitation on U–235 established in proposed Article IV.

Under Article VIII provisions of the current agreement, which provide the United States safeguards rights to ensure no military use of material, equipment and devices transferred under the agreement, would be updated in the comprehensive form now common to other Agreements for Cooperation.

Proposed Article IX would bring Indonesia's "peaceful uses" guarantee respecting material, equipment and devices received under the agreement into conformity with such guarantee in our current Agreements for Cooperation.

Article X would reflect the fact that safeguards responsibilities for materials, equipment and facilities received by Indonesia under the agreement have already been transferred to the International Atomic Energy Agency under a trilateral agreement signed in 1967; the article would provide for the continued application of such safeguards by the Agency. As is presently the case, United States safeguards rights would remain suspended during the time and to the extent that Agency safeguards are in effect.

Following your approval, determination, and authorization, the proposed amendment will be formally executed by appropriate authorities of the Governments of the United States of America and the Republic of Indonesia. In compliance with Section 123c of the Atomic Energy Act of 1954, as amended, the amendment will be placed before the Joint Committee on Atomic Energy.

Respectfully yours,

_____.

AMENDMENT TO AGREEMENT FOR COOPERATION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE REPUBLIC OF INDONESIA CONCERNING CIVIL USES OF ATOMIC ENERGY

The Government of the United States of America and the Government of the Republic of Indonesia,

Desiring to amend the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy, signed at Washington on June 8, 1960 (hereinafter referred to as the "Agreement for Cooperation"), which was amended by the Agreement signed on January 12, 1966,

Agree as follows:

ARTICLE I

Article I of the Agreement for Cooperation is amended to read as follows:

"For the purposes of this Agreement:

(a) 'Parties' means the Government of the United States of America, including the Commission on behalf of the Government of the United States of America, and the Government of the Republic of Indonesia. 'Party' means one of the above 'Parties'.

(b) 'Commission' means the United States Atomic Energy Commission.

(c) 'Atomic weapon' means any device utilizing atomic energy, exclusive of the means for transporting or propelling the device (where such means is a separable and divisible part of the device), the principal purpose of which is for use as, or for development of, a weapon, a weapon prototype, or a weapon test device.

(d) 'Byproduct material' means any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(e) 'Equipment and devices' and 'equipment or devices' mean any instrument, apparatus, or facility, and include any facility, except an atomic weapon, capable of making use of or producing special nuclear material, and component parts thereof.

(f) 'Person' means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, government agency, or government corporation but does not include the Parties to this Agreement.

(g) 'Research reactor' means a reactor which is designed for the protection of neutrons and other radiations for general research and development purposes, medical therapy and diagnosis, or training in nuclear science and engineering. The term does not cover power reactors, power demonstration reactors, or reactors designed primarily for the production of special nuclear material.

(h) 'Restricted Data' means all data concerning (1) design, manufacture, or utilization of atomic weapons, (2) the production of special nuclear material, or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the category of Restricted Data by the appropriate authority.

(i) 'Safeguards' means a system of controls designed to assure that any material, equipment and devices committed to the peaceful uses of atomic energy are not used to further any military purpose.

(j) 'Source material' means (1) uranium, thorium, or any other material which is determined by the Commission or the Government of the Republic of Indonesia to be source material, or (2) ores containing one or more of the foregoing materials, in such concentration as the Commission or the Government of the Republic of Indonesia may determine from time to time.

(k) 'Special nuclear material' means (1) plutonium, uranium enriched in the isotope 233 or the isotope 235, and any other material which the Commission or the Government of the Republic of Indonesia determines to be special nuclear material, or (2) any material artificially enriched by any of the foregoing."

ARTICLE II

Article II of the Agreement for Cooperation is amended to read as follows:

"A. Subject to the provisions of this Agreement, the availability of personnel and material, and the applicable laws, regulations, and license requirements in force in their respective countries, the Parties shall cooperate with each other in the achievement of the uses of atomic energy for peaceful purposes.

"B. Restricted Data shall not be communicated under this Agreement, and no materials or equipment and devices shall be transferred, and no services shall be furnished, under this Agreement, if the transfer of any such materials or equipment and devices or the furnishing of any such services involves the communication of Restricted Data.

"C. This Agreement shall not require the exchange of any information which the Parties are not permitted to communicate."

ARTICLE III

Article III of the Agreement for Cooperation is amended to read as follows:

"A. Subject to the provisions of Article II, the Parties will exchange unclassified information with respect to the application of atomic energy to peaceful uses and the problems of health and safety connected therewith. The exchange of information provided for in this Article shall be accomplished through various means, including reports, conferences, and visits to facilities, and shall include information in the following fields:

(1) Design, construction, operation, and use of research reactors, materials testing reactors, and reactor experiments;

(2) The use of radioactive isotopes and source material, special nuclear material, and byproduct material in physical and biological research, medicine, agriculture, and industry; and

(3) Health and safety problems related to the foregoing.

"B. The application or use of any information (including design drawings and specifi-

cations), and any material, equipment and devices, exchanged or transferred between the Parties under this Agreement, shall be the responsibility of the Party receiving it, and the other Party does not warrant the accuracy or completeness of such information and does not warrant the suitability of such information, material, equipment and devices for any particular use or application."

ARTICLE IV

Article IV of the Agreement for Cooperation is amended to read as follows:

"A. As may be agreed, the Commission will transfer to the Government of the Republic of Indonesia or, pursuant to Article VII, to authorized persons under its jurisdiction, uranium enriched in the isotope U–235 for use as fuel in defined research applications, including research reactors, materials testing reactors, and reactor experiments, which the Government of the Republic of Indonesia decides to construct or operate or authorizes private persons to construct or operate in the Republic of Indonesia. Contracts setting forth the terms, conditions, and delivery schedule of each transfer shall be agreed upon in advance.

"B. The net amount of U–235 in enriched uranium transferred under this Article during the period of this Agreement, shall not at any time exceed twenty-five (25) kilograms. This net amount shall be the gross quantity of such contained U–235 in uranium transferred during the period of this Agreement less the quantity of such contained U–235 in recoverable uranium which has been resold or otherwise returned to the United States of America during the period of this Agreement or transferred to any other nation or group of nations with the approval of the Government of the United States of America.

"C. Within the limitations contained in paragraph B of this Article, the quantity of uranium enriched in the isotope U–235 transferred under this Article and under the jurisdiction of the Government of the Republic of Indonesia for the fueling of reactors or reactor experiments shall not at any time be in excess of the quantity thereof necessary for the loading of such reactors or reactor experiments, plus such additional quantity as, in the opinion of the Commission, is necessary to permit the efficient and continuous operation of such reactors or reactor experiments.

"D. The enriched uranium supplied hereunder may contain up to twenty percent (20%) in the isotope U–235. All or a portion of the foregoing special nuclear material may be made available as uranium enriched to more than twenty percent (20%) by weight in the isotope U–235 when the Commission finds there is a technical or economic justification for such a transfer for use in research reactors, materials testing reactors, and reactor experiments, each capable of operating with a fuel load not to exceed eight (8) kilograms of the isotope U–235 contained in such uranium.

"E. When any special nuclear material received from the United States of America pursuant to this Agreement requires reprocessing, or any irradiated fuel elements containing fuel material received from the United States of America pursuant to this Agreement are to be removed from a reactor and are to be altered in form of content, such reprocessing or alteration shall be performed in facilities acceptable to both Parties upon a joint determination of the Parties that the provisions of Article VIII may be effectively applied.

"F. Special nuclear material produced as a result of irradiation processes in any part of fuel leased by the Commission under this Agreement shall be for the account of the lessee and, after reprocessing as provided in paragraph E of this Article title to such produced material shall be in the lessee unless the Commission and the lessee otherwise agree.

"G. No special nuclear material produced through the use of material transferred to the Government of the Republic of Indonesia or to authorized persons under its jurisdiction, pursuant to this Agreement, will be transferred to any other nation or group of nations, except as the Commission may agree to such a transfer.

"H. Some atomic energy materials which the Commission may be requested to provide in accordance with this Agreement are harmful to persons and property unless handled and used carefully. After delivery of such materials, the Government of the Republic of Indonesia shall bear all responsibility, insofar as the Government of the United States of America is concerned, for the safe handling and use of such materials. With respect to any special nuclear material or fuel elements which the Commission may, pursuant to this Agreement, lease to the Government of the Republic of Indonesia or to any person under its jurisdiction, the Government of the Republic of Indonesia shall indemnify and save harmless the Government of the United States of America against any and all liability (including third party liability) for any cause whatsoever arising out of the production or prefabrication, the ownership, the lease, and the possession and use of such special nuclear material or fuel elements after delivery by the Commission to the Government of the Republic of Indonesia or to any person under its jurisdiction."

ARTICLE V

Article V of the Agreement for Cooperation is amended to read as follows:

"A. Materials of interest in connection with the subject of agreed exchange of information, as provided in Article III and subject to the provisions of Article II, including source material, heavy water, byproduct material, other radioisotopes, stable isotopes, and special nuclear material for purposes other than fueling reactors and reactor experiments, may be transferred between the Parties for defined applications in such quantities and under such terms and conditions as may be agreed when such materials are not commercially available.

"B. Subject to the provisions of Article II and under such terms and conditions as may be agreed, specialized research facilities and reactor materials testing facilities of the Parties may be made available for mutual use consistent with the limits of space, facilities, and personnel conveniently available when such facilities are not commercially available.

"C. With respect to the subjects of agreed exchange of information as provided in Article III and subject to the provisions of Article II, equipment and devices may be transfered from one Party to the other under such terms and conditions as may be agreed. It is recognized that such transfers will be subject to limitations which may arise from shortage of supplies or other circumstances existing at the time."

ARTICLE VI

Article VI of the Agreement for Cooperation is deleted in its entirety.

ARTICLE VII

Article VII of the Agreement for Cooperation is amended to read as follows:

"A. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of equipment and devices and materials other than special nuclear material and for the performance of services with respect thereto.

"B. With respect to the application of atomic energy to peaceful uses, it is understood that arrangements may be made between either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party for the transfer of special nuclear material and for the performance of services with respect thereto for the uses specified in Articles IV and V and subject to the limitations of Article IV, paragraph B.

"C. The Parties agree that the activities referred to in paragraphs A and B of this Article shall be subject to the limitations in Article II and to the policies of the Parties with regard to transactions involving the authorized persons referred to in paragraphs A and B of this Article."

ARTICLE VIII

Article VIII of the Agreement for Cooperation is amended to read as follows:

"A. The Government of the United States of America and the Government of the Republic of Indonesia emphasize their common interest in assuring that any material, equipment or devices made available to the Government of the Republic of Indonesia or any person under its jurisdiction pursuant to this Agreement shall be used solely for civil purposes.

"B. Except to the extent that the safeguards rights provided for in this Agreement are suspended by virtue of the application of safeguards of the International Atomic Energy Agency, as provided in Article X, the Government of the United States of America, notwithstanding any other provisions of this Agreement, shall have the following rights:

(1) With the objective of assuring design and operation for civil purposes and permitting effective application of safeguards, to review the design and operation of any

(a) reactor, and

(b) other equipment and devices the design of which the Commission determines to be relevant to the effective application of safeguards,

which are to be made available under this Agreement to the Government of the Republic of Indonesia or to any person under its jurisdiction by the Government of the United States of America or any person under its jurisdiction, or which are to use, fabricate, or process any of the following materials so made available: source material, special nuclear material, moderator material, or other material designated by the Commission:

(2) With respect to any source material or special nuclear material made available to the Government of the Republic of Indonesia or to any person under its jurisdiction under this Agreement by the Government of the United States of America or any person under its jurisdiction and any source material or special nuclear material utilized in, recovered from, or produced as a result of the use of any of the following materials, equipment or devices so made available:

(a) source material, special nuclear material, moderate material, or other material designated by the Commission,

(b) reactors, and

(c) any other equipment or devices designated by the Commission as an item to be made available on the condition that the provisions of this paragraph B(2) will apply,

(i) to require the maintenance and production of operating records and to request and receive reports for the purpose of assisting in ensuring accountability for such materials, and

(ii) to require that any such materials in the custody of the Government of the Republic of Indonesia or any person under its jurisdiction be subject to all of the safeguards provided for in this Article and the guarantees set forth in Article IX;

(3) To require the deposit in storage facilities designated by the Commission of any of the special nuclear material referred to

in paragraph B(2) of this Article which is not currently utilized for civil purposes in the Republic of Indonesia and which is not transferred pursuant to Article IV of this Agreement or otherwise disposed of pursuant to an arrangement mutually acceptable to the Parties;

(4) To designate, after consultation with the Government of the Republic of Indonesia, personnel who, accompanied, if either Party so requests, by personnel designated by the Government of the Republic of Indonesia, shall have access in the Republic of Indonesia to all places and data necessary to account for the source material and special nuclear material which are subject to paragraph B(2) of this Article to determine whether there is compliance with this Agreement and to make such independent measurements as may be deemed necessary.

(5) In the event of non-compliance with the provisions of this Article or the guarantees set forth in Article IX and the failure of the Government of the Republic of Indonesia to carry out the provisions of this Article within a reasonable time, to suspend or terminate this Agreement and to require the return of any materials, equipment and devices referred to in paragraph B(2) of this Article;

(6) To consult with the Government of the Republic of Indonesia in the matter of health and safety.

"C. The Government of the Republic of Indonesia undertakes to facilitate the application of the safeguards provided for in this Article."

ARTICLE IX

Article IX of the Agreement for Cooperation is amended to read as follows:

"The Government of the Republic of Indonesia guarantees that:

(a) Safeguards provided in Article VIII shall be maintained.

(b) No material, including equipment and devices, transferred to the Government of the Republic of Indonesia or authorized persons under its jurisdiction by purchase or otherwise pursuant to this Agreement, and no special nuclear material produced through the use of such material, equipment or devices, will be used for atomic weapons, or for research on or development of atomic weapons, or for any other military purpose; and no material, including equipment and devices, transferred to the Government of the Republic of Indonesia or authorized persons under its jurisdiction pursuant to this Agreement will be transferred to unauthorized persons or beyond the jurisdiction of the Government of the Republic of Indonesia, except as the Commission may agree to such a transfer to another nation or group of nations, and then only if, in the opinion of the Commission, the transfer of the material is within the scope of an Agreement for Cooperation between the Government of the United States of America and the other nation or group of nations."

ARTICLE X

Article X of the Agreement for Cooperation, as amended, is amended to read as follows:

"A. The Government of the United States of America and the Government of the Republic of Indonesia note that, by an agreement signed by them and the International Atomic Energy Agency on June 19, 1967, the Agency has been applying safeguards to materials, equipment and facilities transferred to the Government of the Republic of Indonesia under this Agreement. The Parties agree that Agency safeguards shall continue to apply to such materials, equipment and facilities as provided in the trilateral agreement, as it may be amended from time to time or supplanted by a new trilateral agreement, recognizing that the safeguards rights accorded to the Government of the United States of America by Article VIII of this Agreement are suspended during the time and to the extent that Agency safeguards apply to such materials, equipment and facilities.

"B. In the event that the trilateral agreement referred to in paragraph A of this Article should be terminated prior to the expiration of this Agreement and the Parties should fail to agree promptly upon a resumption of Agency safeguards, either Party may, by notification, terminate this Agreement. In the event of termination by either Party, the Government of the Republic of Indonesia shall, at the request of the Government of the United States of America, return to the Government of the United States of America all special nuclear material received pursuant to this Agreement and still in its possession or in the possession of persons under its jurisdiction. The Government of the United States of America will compensate the Government of the Republic of Indonesia or the persons under its jurisdiction for their interest in such material so returned at the Commission's schedule of prices then in effect in the United States of America."

ARTICLE XI

Article XI of the Agreement for Cooperation, as amended, is amended to read as follows:

"This Agreement shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for the entry into force of such Agreement and shall remain in force for a period of twenty (20) years."

ARTICLE XII

This Amendment shall enter into force on the date on which each Government shall have received from the other Government written notification that it has complied with all statutory and constitutional requirements for entry into force of such Amendment and shall remain in force for the period of the Agreement for Cooperation, as hereby amended.

In witness whereof, the undersigned, duly authorized, have signed this Agreement.

Done at Washington, in duplicate, this tenth day of June, 1970.

For the Government of the United States of America:

WINTHROP G. BROWN,
Deputy Assistant Secretary, Bureau of East Asian and Pacific Affairs, U.S. Department of State.

GLENN T. SEABORG,
Chairman, U.S. Atomic Energy Commission.

For the Government of the Republic of Indonesia:

HIS EXCELLENCY SOEDIATMOKO,
Ambassador of the Republic of Indonesia.

Certified to be a true copy:

BARBARA H. THOMAS,
USAEC.

PROPOSED AMENDMENT TO UNITED STATES-INDONESIAN ATOMIC ENERGY AGREEMENT

Washington, D.C., June 2, 1970.

The proposed "Amendment to Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy", which you submitted for my approval with your letter of May 20, 1970, has been reviewed.

Pursuant to the provisions of Section 123b of the Atomic Energy Act of 1954, as amended, and upon the recommendation of the Atomic Energy Commission, I hereby:

(a) Approve the proposed Amendment, and determine that its performance will promote and will not constitute an unreasonable risk to the common defense and security of the United States of America; and

(b) Authorize the execution of the proposed Amendment on behalf of the Government of the United States of America by appropriate authorities of the Department of State and the Atomic Energy Commission.

RICHARD NIXON.

U.S. ATOMIC ENERGY COMMISSION,
Washington, D.C., June 10, 1970.

HON. CHET HOLIFIELD,
Chairman, Joint Committee on Atomic Energy, Congress of the United States.

DEAR MR. HOLIFIELD: Pursuant to Section 123c of the Atomic Energy Act of 1954, as amended, there are submitted with this letter copies of the following:

(a) a proposed amendment to the "Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Indonesia Concerning Civil Uses of Atomic Energy;"

(b) a letter from the Commission to the President recommending approval of the amendment; and

(c) a letter from the President to the Commission containing his determination that its performance will promote and will not constitute an unreasonable risk to the common defense and security, and approving the amendment and authorizing its execution.

The present research type of Agreement for Cooperation with Indonesia was signed on June 8, 1960, and is due to expire on September 20, 1970. The main purpose of the enclosed amendment is to extend the agreement for an additional ten years.

In extending the agreement, the opportunity has been utilized to bring its provisions into conformity with corresponding ones of recent agreements and amendments. For example, Article I of the amendment incorporates the comprehensive list of key terms, and their definitions, now employed in our Agreements for Cooperation, and reliance on cross-reference to definitions in the Atomic Energy Act of 1954, as amended, has been discontinued. Articles II and III set forth in current form the cooperation which may be undertaken and the types of information which may be exchanged.

Article IV establishes a net ceiling of up to twenty-five kilograms of U–235 in enriched uranium which may be transferred to Indonesia for fueling research reactors, materials testing reactors, and reactor experiments over the life of the agreement. The article also incorporates the provision, common to our recent research type of agreements, that uranium fuel may be enriched to greater than twenty percent in U–235 if technically or economically justified for use in research reactors capable of operating with fuel loads that do not exceed eight kilograms of contained U–235. (The current agreement restricts fuel enrichment to a maximum of twenty percent.) Further, as incorporated for example in the recent Argentine, Austrian and Portuguese Agreements, the options granted to the United States to acquire special nuclear material produced in material obtained from the United States have been discontinued. The transfer, however, from Indonesia to any other nation or group of nations of special nuclear material produced in U.S.-origin material acquired by Indonesia under the bilateral would be subject to approval by the United States.

Article V consolidates provisions of the agreement regarding transfers of various materials. The existing small quantity limitations on special nuclear material which may be transferred for other than fueling purposes has been discontinued, in accordance with our practice of a number of years.

Article VII provides that either Party or authorized persons under its jurisdiction and authorized persons under the jurisdiction of the other Party may make arrangements for the transfer of special nuclear material. Such transfers would be for uses specified in the

agreement and would be subject to the quantity limitation on U-235 established in Article IV.

Under Article VIII provisions of the current agreement, respecting United States safeguards rights, have been updated in the comprehensive form now common to other Agreements for Cooperation.

Article IX brings Indonesia's "peaceful uses" guarantee pertaining to material, equipment and devices received under the agreement into conformity with such guarantee in our current Agreements for Cooperation.

Article X reflects the fact that safeguards responsibilities for materials, equipment and facilities received by Indonesia under the agreement have already been transferred to the International Atomic Energy Agency under a trilateral agreement signed in 1967; the article provides for the continued application of such safeguards by the Agency. As is presently the case, United States safeguards rights would remain suspended during the time and to the extent that Agency safeguards are in effect.

The amendment will enter into force on the date on which each Government shall have received from the other Government written notification that it has compiled with all statutory and constitutional requirements for entry into force.

Cordially,

GLENN T. SEABORG,
Chairman.

PUBLIC POLICIES FAVOR EXTRACTIVE INDUSTRIES, DISCOURAGE RECYCLING OF WASTES

Mr. MUSKIE. Mr. President, the achievement of more rational practices in the area of resource use will clearly require some very basic changes in our national production and consumption patterns—and in public policies which affect them.

The Senator from Missouri (Mr. EAGLETON), my colleague on the Air and Water Pollution Subcommittee, has argued that adequate recycling of resources which are now wasted may require that we abandon a wide variety of administrative, regulatory, and tax policies which now favor the extractive industries.

Senator EAGLETON developed this extremely significant thesis in a speech in St. Louis on June 25. I ask uanimous consent that his remarks be printed in the RECORD.

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

SPEECH OF SENATOR THOMAS F. EAGLETON, NATIONAL ASSOCIATION OF SECONDARY MATERIAL INDUSTRIES, INC.

Let me begin with this prediction: Ten years from now your secondary materials industry will be one of the five or six most important in America—the equal of transportation, communications, mining or finance. Your technology will be as prominent as cybernetics is today. You will hold a substantial share of our national raw materials market. You will be processing materials which have no apparent value today for uses we cannot now foresee.

For our nation is at a watershed in its economic development. Since the first trees fell at Jamestown and Plymouth, we have pursued a policy—a right and necessary policy for a young country—of exploiting our national resources. Now we must turn to *conserving* our resources, *protecting* our environment, and *recycling* what we already have for maximum use.

If there were ever an industry with history on its side, it is yours. You are about to be promoted from economic step-child to favorite heir—from Cinderella to Princess.

Unhappily, however, this transformation is not going to be accomplished by a fairy godmother. As in any period of transition, there are some tough public policy, managerial and technical problems which have to be solved—by you, by government and by the public as a whole.

In the area of public policy, it seems clear that administrative and regulatory practices left over from our age of exploitation—and tax policy and consumer preferences as well—are stacked in favor of the extractive industries . . . and consequently against recycling.

For example, producers of many primary materials have the advantage of percentage depletion allowances. You don't. Yet your products must compete directly with theirs in the marketplace. At a time when the society is concerned about cleaning up auto graveyards and recycling the steel in junked cars, it would be interesting to know what impact the 15% mineral depletion allowance has on the price of iron ore relative to the price of scrap.

The federal government provides services to private enterprises which encourage primary production of resources. The Geological Survey is devoted to identifying promising geological provinces for industry to develop. The Bureau of Mines conducts research which is available free to the mining industry. The Department of the Interior subsidizes exploration for precious metals.

And when we experience peacetime shortages in many minerals, we limit their export rather than stepping up recycling activities. As your executive vice president, Mr. Mighdoll, pointed out in Tuesday's Wall Street Journal, these export restrictions reduce demand for the recycled product.

Our regulatory measures may also favor the producers of primary materials.

I gather, for example, that rerefined motor oil is as good as new, but that it has to carry the pejorative label "used oil." If rerefined oil is as good as virgin oil, I see no reason why it should not be labeled so that it can compete with virgin oil on its merits. We might find that we could buy oil cheaper, begin in a small way to reduce the demands on our declining domestic oil reserves, and even avoid polluting our waterways with used crankcase oil for which there is now no market.

Mr. Mighdoll also pointed out that federally regulated freight rates for iron ore and pulp wood are less than those for scrap metal and scrap paper.

Even Uncle Sam's policies as a landlord may indirectly favor the use of primary rather than secondary materials. Producers of primary materials operating on federal land under the mining law of 1872, for example, pay no bonus royalty of other similar charges for their raw materials—the minerals they take out of the land. I assume that you generally have to pay for your raw materials—and you'll probably have to pay more as recycling becomes more common.

In addition to these public policies, there is the much more important fact that our system of production—our manufacturing techniques, our marketing system, our consumer habits—have been oriented in some degree toward a national philosophy of "use and discard." This system makes it unnecessarily difficult and costly to recapture and reuse the materials from which our automobiles, refrigerators and other goods are manufactured.

These public policies and private practices do not result from conscious discrimination against the secondary materials industy. Some of them still may be perfectly justifiable and in the national interest.

But taken together, these policies and practices belong to the national priorities of another era. At the very least, they demand re-evaluation in light of the urgent priorities of today.

Does the percentage depletion allowance significantly affect the relative costs—and thus demand—for iron ore and scrap? Is the answer to subsidize scrap processors . . . or eliminate the percentage depletion allowance . . . or a little of both . . . or neither?

Should resource recycling be heavily subsidized by government, or should it be primarily the result of the operation of the market mechanism?

In what ways should products be designed to permit easier recycling? Are such design changes the proper subject for regulation, or should the market dictate them?

Under what conditions should government policies—for instance those governing pollution emission standards or waste disposal—be explicitly designed to encourage recycling?

And in general, how do we as a nation assure that our industrial operations—and indeed our personal activities—will bear the full social costs they impose on society?

I am delighted to hear that you have received a grant from the Bureau of Solid Waste Management of the Department of Health, Education and Welfare for a comprehensive study of recycling secondary materials. I hope your investigation will include some of these broad policy questions.

The Senate Public Works Committee, on which I serve, is also making progress on solid wastes, and I anticipate that we will complete work on a solid waste disposal bill next week. The final details of the bill are not yet settled, but I can tell you something about its broad outlines.

It will significantly reorient the old solid waste disposal program toward development of resource recovery systems for recycling as well as disposal of solid wastes.

Further, it will:

Authorize far-reaching resource recovery investigations.

Establish a program to assist in planning for areawide resource recovery systems as a part of regional environmental protection programs.

Authorize a demonstration program of resource recovery systems.

Provide for establishment of recommended guidelines for systems for solid waste recovery, collection, separation and disposal.

Authorize training grants for personnel connected with solid waste disposal and resource recovery systems.

Authorize a national disposal sites study for hazardous wastes.

Authorize a study looking toward development of a national materials policy.

If this bill is enacted, it will focus public attention on recovered materials in the broader context of resource use and environmental protection. I think it will promote new and mutually beneficial complementary relationships between the public and private sectors.

While there is obviously an urgent need for government effort of the kind this bill will provide, I am firmly convinced that the *economics* of resource use—not government programs or pious hopes—will determine our long-run success in recycling the materials we now waste.

Ultimately, the recycling process must be built into our free enterprise system so that serving our environmental priorities will be a self-financing, automatic by-product of our patterns of production and consumption.

This means doing away with policies which cause distortions in the pricing mechanism that are unfavorable to recycling—not compensating for existing distortions with other distortions in the form of artificial inducements to recycling. This is a tall order because every existing subsidy, tax break or other advantage has its own constituency of workers, industrialists and even consumers who depend on having things the way they

are. There is seldom as effective a constituency for change—even when it is urgently needed, constructive change.

I wish you the greatest possible success in the research project that you will be discussing this afternoon and also with your exciting job of protecting and enhancing the environment for fun and profit.

NEIGHBORHOOD YOUTH CORPS CUTBACK

Mr. TYDINGS. Mr. President, the administration's plan to slash the wages of participants in the out-of-school Neighborhood Youth Corps program threatens the very existence of this vital and successful program.

Despite the protests of Neighborhood Youth Corps directors across the country and against the expressed desires of the Nation's big city mayors, the administration has persisted in its scheme to substantially reduce the wages of the Neighborhood Youth Corps participants.

Under the administration's scheme, high school dropouts participating in the out-of-school Neighborhood Youth Corps program in Baltimore, for example, will find their wages sliced to less than 90 cents an hour for a 40-hour week. Currently, the same Neighborhood Youth Corps participants receive $1.45 an hour for a 32-hour week.

The NYC directors in Baltimore and across the Nation are concerned that the administration's new ill-conceived wage scheme will drive out of the program the youngsters who need it the most.

The administration is apparently unconcerned about that consequence of its action. Just 10 days ago a Labor Department official was quoted in an article by Naomi S. Rovner in the Baltimore Sun as saying:

> If the lower take-home pay drives a youth out of the program, I say to hell with him. Maybe that shocks you, but it is a matter of motivation and if one doesn't want to go back to school, then another one will take his place.

I believe that attitude on the part of the top Labor Department official reveals again how far out of touch this administration is with the happenings on the streets of our great cities. It is one thing to sit behind a desk in the Department of Labor building in Washington and say "to hell" with a youngster who refuses to participate in a program paying scarcely half the minimum wage. But it is another to have to deal with that same youngster on the street after he has become even more embittered at being driven away from the NYC program because it does not pay enough money for him to live on.

The administration promises that it will offset the wage reduction by providing improved supportive services—such as skilled training and medical services—for the Neighborhood Youth Corps participants. While I agree that it is desirable to improve supportive services, I believe it should not be done in a manner that torpedoes the program's effectiveness by discouraging needy youngsters from joining.

My concern is deepened because of the Labor Department's atrocious track record on the Job Corps program. Despite its quite bold promises a year ago of new urban centered job training programs to replace the Job Corps centers it closed, the administration has not produced those centers. I am concerned that a year from now we may find the NYC program devastated while the Administration is still promising to improve supportive services.

Just 2 weeks ago the National Conference of Mayors passed a resolution recently by Mayor Thomas J. D'Alesandro III, of Baltimore, requesting that the Department of Labor halt its plans to overhaul the NYC out-of-school program. This afternoon I have asked Secretary of Labor Hodgson to follow that sound advice offered by the mayors of our great cities.

I ask unanimous consent that the text of my letter to Secretary Hodgson and the article by Naomi S. Rovner, published in the Baltimore Sun of June 21, 1970, be printed in the RECORD.

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

JUNE 30, 1970.

Hon. JAMES D. HODGSON,
Secretary of Labor,
Washington, D.C.

DEAR MR. SECRETARY: I urge you to halt your plans to overhaul the Out-Of-School Neighborhood Youth Corps Program.

As I indicated in my speech on the Senate Floor a month ago, your plans threaten the very existence of the vital and successful Out-Of-School Neighborhood Youth Corps Program.

I am particularly concerned that your scheme to reduce the wages of the Neighborhood Youth Corps participants will drive out of the program the youngsters who need it the most.

Currently, high school dropouts participating in the Out-Of-School Neighborhood Youth Corps Program receive $1.45 an hour. Under your scheme, these same youngsters in Baltimore, for example, will find their wages reduced to less than $.90 an hour and their work week increased by eight hours.

I am in complete sympathy with your intention to increase the supportive services—such as skill training and medical services—provided for the NYC participants. That should be done. But it should not be done in a manner that torpedoes the program's effectiveness by discouraging needy youngsters from joining.

My concern is deepened because of your Department's atrocious track record on the Job Corps Program. Despite bold promises a year ago of new urban centered job training programs to replace the Job Corps Centers you closed, the Administration has not produced those centers. I am concerned that a year from now we may find the NYC Program devastated while your Department is still promising to improve supportive services.

As you are aware, the National Conference of Mayors recently passed a resolution offered by Mayor Thomas J. D'Alesandro, III of Baltimore requesting that your Department halt its plans to revamp the vital Neighborhood Youth Corps Out-Of-School Program. This Administration has often been criticized for being out of touch with what is going on in our major cities. The Mayors of our cities have gone on record about a program that they consider vital to their cities. I urge you to take their advice.

Sincerely,

JOSEPH D. TYDINGS.

[From the Baltimore Sun, June 21, 1970]

FOR YOUTH CORPS: BROKEN PROMISES

(By Naomi S. Rovner)

WASHINGTON.—Some 34,000 enrollees in out-of-school Neighborhood Youth Corps programs in major United States cities will get a federal pay cut next month which some big-city mayors think will doom the program.

But Nixon administration manpower planners who are responsible for the new design of the year-round corps are adamant that the program will be better "in the long run."

They uncomfortably admit that they are responsible for the effective cut in take-home pay for the 16- and 17-year-old high school dropouts in the program. They much prefer to call it a new program with additional money in the form of a stipend for attending vocational classes about two-thirds of the time and working at $1.45 an hour for one-third of the time—about 13 hours of a 40-hour week. Previously, youngsters were paid for on-the-job training for a 40-hour week.

TO HELL WITH HIM

Only when pushed will Labor Department spokesmen admit that there will be difficulties for "some individuals."

But, said one Labor official, "if the lower take-home pay drives a youth out of the program I say to hell with him. Maybe that shocks you, but it is a matter of motivation and if one doesn't want to go back to school, then another one will take his place."

Jack Hashion, the deputy assistant information director for manpower at the Labor Department, said: "We took a cold, hard look at the program and we found that it was a dead end . . . a tangent . . . a respite from the real world."

Manpower officials determined that too many of the dropouts were in "makework" positions—menial, janitorial, clean-up, no skills-required jobs which gave them no help for bettering their positions. By and large, program field directors tended to agree with this and advocated change which would bring more supportive services and on-the-job skill training to youngsters.

But, as an aide to a Maryland senator put it recently, "Who would have thought they would make the kids pay for their own training?" The aide to Senator Joseph D. Tydings (D., Md.) has been assigned to "bird dog" Maryland programs and Mr. Tydings said recently that his fears that the Nixon administration was shortchanging youth, particularly disadvantaged youth, were being confirmed.

Mr. Tydings was alerted to the impending average hourly pay cut for Baltimore's 600 Youth Corpsmen a few weeks ago when panicked city officials approached him for help.

VARIES BY STATE

In Baltimore, the average hourly pay will drop from $1.45 an hour, the minimum wage paid to enrollees for a 32-hour work week, to 85 cents an hour—the average from their continued $1.45 an hour for only 13 hours a week and the "stipend" for 27 hours of schooling.

The much smaller stipend varies from state to state.

It is computed by taking 75 per cent of the classroom pay provided for older enrollees in the manpower development training programs in a given state. Those payments are based on the unemployment compensation paid out in a state. In many cases top officials of major cities are only just discovering that new computations produce a much lower average hourly wage.

"Anyone should have seen it," Labor officials insist. They confirmed, however, that press releases on the new program emphasized the "educational input" and failed to mention any pay cut.

Weeks after the first anguished complaints began to pile up from cities seeing their programs decimated at a time when jobs are scarcer than ever and living costs continue to go up, the Labor Department here still cannot provide any city-by-city figures on the program's impact.

WASN'T GOING

They will admit that the take-home pay which was as much as $58 a week in some places, will drop to a low of $26 in Mississippi. Least affected is California, where young dropouts will receive $48.

"But the program just wasn't going anywhere," Labor spokesmen said.

Mr. Hashion declared that overall "this program is a disservice to the kids. We cannot perpetuate the feeling that 'somebody owes me a living', by providing them with ersatz jobs and letting them live it up—as much as one can live it up on $58 a week," he added.

But as much as the pay cut, program field directors fear the reaction of their enrollees to the required return to classrooms.

SHUTDOWN CITED

As Mr. Tydings noted in a recent speech in the Senate, the Nixon administration has cut back youth programs with promises of better substitutes which are never fulfilled. The administration's record, he declared "is a laundry list of broken promises."

He cited the shutdown of 59 Job Corps centers last year which was accompanied by publicity on a new series of "mini-centers" in cities to give job training that closed centers had been providing to 17,000 youngsters.

"More than 10 months after the Job Corps centers were closed," the Marylander declared, "the administration has produced only five urban job centers, serving a grand total of only 1,057 youngsters, compared to the 17,000 sent home from the Job Corps last summer."

BALTIMOREAN UNBELIEVER

Based on this kind of experience, city Youth Corps directors are frankly skeptical that the promised better educational centers and supportive services called for in the new youth program will be forthcoming.

James M. Chavis, the Baltimore program director, simply does not believe that youngsters whose school experience was so irrelevant that they dropped out, will be receptive to any lure back into the same classrooms. Especially with an accompanying pay cut.

The administration response to this is a shrug, suggesting that there are plenty of other programs young people could enter.

D'ALESANDRO ACTS

Mr. Hashion suggested, for example, the much-heralded JOBS (jobs in the private business sector) program. Then he conceded that the "temporary economic slowdown," the new Nixon word for recession, had put a serious crimp into the JOBS program. It is, he noted, moving into the public sector and "hopefully there will be more money. . . ."

Mayor D'Alesandro, in Denver last week to attend meetings of the U.S. Conference of Mayors, was able to gain almost unanimous support for a resolution calling on the Labor Department to revise the pay scales.

There does not seem to be any such inclination in Washington, however.

SOME EFFORT

"If," said Mr. Hashion, "you are going to be running a welfare program, then we should say so. When Mayor D'Alesandro talks about the individual, I have to admit he is absolutely right . . . there will be individuals who will suffer . . . some will fall through, but looking at the broad picture it will not be that painful," he said.

He hinted that some effort will be made to add payments for young enrollees who are heads of households or who have small children to support, but "nothing has been approved yet."

And despite the faltering JOBS program, plus a summer Youth Corps program which will require special congressional approval to meet even a fraction of big-city needs, Mr. Hashion maintained that dropouts from the dropout program "can be absorbed elsewhere."

DEMOCRATS, YES?

Baltimore, in fact, is in better economic shape than such one-industry cities as, for example, Detroit or Pittsburgh. Yet even in Baltimore, businesses which pledged 4,000 summer jobs last year and came through with 2,000 have this year pledged only 2,000 and city officials expect to realize only half.

Beleaguered big-city mayors and other administration critics are certain that the cities are being slighted deliberately because city administrations are more often controlled by Democratic mayors or councils. (Rural areas are exempted from the new Youth Corps guidelines, they note.)

Mr. Tydings sees an administration disaffection with youth.

City Youth Corps directors see their own link with disaffected youth evaporating in frustration and poverty.

And who, asked a former poverty program official, "is measuring the temperature of the cities?"

"Sure, I know they don't like it . . . I agree it was bad news for them (city poverty directors)," Mr. Hashion said, "it just made the job tougher, but that's not the point . . . you have to look at the overall picture. . . ."

INSURING THE SAFETY OF POLICEMEN

Mr. PERCY. Mr. President, all of us would agree, I think, that Gilbert and Sullivan's words, "The policeman's lot is not a happy one," are even more accurate today than they were at the time they were written, in 1879. The increase in crime, civil disorder and violent protest has had a profound impact throughout our society, but it has been felt most deeply by society's protectors, the police. Few Americans who read a newspaper or watch television can escape the conclusion that the policeman's job is often thankless.

But the liabilities of police work involve more than the long hours and low pay, more even than the frequent harassment and occasional physical abuse. Too often we forget that a policeman places his life on the line every day of his working career. It is only when we read or hear of the tragic loss of a policeman's life that we are reminded of the terribly high stakes that are an everyday part of police work.

Mr. President, on June 19, in the city of Chicago, Patrolman Kenneth Kaner's life was brutally ended at the age of 33, when he was shotgunned to death while sitting alone in his squad car, filling out a missing persons report. Because he was operating in a one-man patrol car, no partner was available to assist Patrolman Kaner when the murderer attacked.

I have no way of knowing, of course, if Patrolman Kaner would be alive today if he had been assigned to a two-man car. But I talked with Patrolman Kaner's widow, Pauline, shortly after the tragedy and she told me of the almost universal concern among Chicago policemen and their wives over the dangers posed by one-man squad cars.

Since I share the concern voiced by the organizations by police officers and the association of policemen's wives, I would like to commend Chicago's police superintendent, James B. Conlisk, Jr., for implementing a change in department policy to insure the safety of his men.

Under Superintendent Conlisk's plan, announced last week, 80 percent of the one-man squad cars will be eliminated during the dangerous night shifts. Due to a reassignment of personnel, no longer will any officer be compelled to enter a high-crime neighborhood alone.

Chicago police officials assure me that there will be no decline in the effectiveness of police services throughout the city because of the policy change. The citizens of Chicago will continue to receive the quality of police protection to which they are entitled. But at the same time, their protectors—the Chicago policemen—should be able to do their jobs without unnecessarily placing their lives in jeopardy.

DISTRICT OF COLUMBIA CRIME

Mr. MATHIAS. Mr. President, I wish to remind Congress of our responsibility in facing up to and dealing with the serious crime problem in the District of Columbia, since Congress has chosen to retain virtually exclusive governmental authority within the District.

To this end, I ask unanimous consent to have printed in the RECORD a list of crimes committed within the District yesterday as reported by the Washington Post. Whether the list grows longer or shorter depends on Congress.

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

SUSPECT SEIZED AFTER HOLDUP OF LOT ATTENDANT

A 20-year-old Southeast Washington man was arrested Saturday night shortly after the holdup of a parking lot attendant who was depositing the day's receipts at the headquarters of the company that owns the lot, police said.

Donna J. Valentine, a 29-year-old employee of the Parking Management, Inc., lot at 1514 L St. NW, told police she was carrying three canvas bags containing $425 to the office on DeSales Street NW when a man brandishing a gun confronted her in the hallway.

She said the man pointed a gun at her and ordered, "Turn it over." After taking the money bags, the gunman fled and Miss Valentine reported the theft.

Two plainclothes police officers, alerted by the police lookout, saw a man fitting the description of the suspect running east on L Street NW and chased him. They said he dropped a coat containing three sacks of money and a .38-caliber revolver with three rounds of ammunition in the 1500 block of L Street as he fled between two parked cars.

Moments later the officers arrested Ronald B. Yarborough, of 2908 Langston Pl. SE, and charged him with robbery, according to reports. Police said they recovered the money and gun.

In other serious crimes reported by area police up to 6 p.m. yesterday:

ASSAULTED

James Thomas Miles, of Washington, was treated at D.C. General Hospital after he was shot during an attempted holdup. Two youths, one of them armed with a gun, approached Miles about 7:55 p.m. Sunday while he was standing at 18th and D Streets NE and said, "Give me your money." When Miles refused, the gunman shot him in the left

shoulder and then fled with his companion into an alley at the rear of 18th Street.

Emmitt Eugene Murphy, of Washington, was treated at Washington Hospital Center for facial injuries he suffered during a fight about 6:25 p.m. Sunday in an apartment in the 700 block of Park Road NW with a man brandishing a bottle.

William L. Riley, of Washington, was treated at D.C. General Hospital for eye injuries he received when a youth threw a rock at him during a fight at about 6:15 p.m. Sunday at a playground near his home in the 700 block of 12th Street SE.

Florence Brown, of Washington, was admitted to Freedmen's Hospital with stab wounds in the breast and wrist. She was stabbed during a fight with a man and woman who attacked her at 7th and O Streets NW at about 1:30 p.m. Sunday.

Henrietta Bradshaw, of 1316 Fairmont St. NW, was admitted to Washington Hospital Center after she was stabbed in the shoulder about 11 a.m., during a fight at her apartment with a woman armed with a knife.

STOLEN

Approximately $923 was stolen between 11 p.m. Sunday and 7:25 a.m. yesterday from a safe inside the High's dairy store at 5001 Wisconsin Ave. NW.

Four cases of liquor and $1,896 in cash and checks, with a total value of $2,076, were stolen between 3:30 a.m. and 12:30 p.m. Sunday from Maxie's Restaurant, 2714 Good Hope Rd. SE, according to Allen C. Reed, of Forestville.

ROBBED

Stanton Park Esso Station, 400 C St. NE, was held up about 3:35 a.m. Sunday by two men who entered the office and asked the attendant, "Where's the phone." One of them pulled out a sawed-off shotgun, grabbed the bills from the attendant's pocket and escaped with his companion.

Jacob Garvin, of Washington, was held up shortly after 3 a.m. Saturday by a youth wielding a knife who approached him at 5th Street and Virginia Avenue SE. The youth forced Garvin to hand over his money and watch, then fled south on 5th Street.

Emmett Johnson, of Washington, was held up early yesterday by a young man wielding a club who approached him in the 200 block of 17th Street NE and said, "Freeze." After removing Johnson's wallet, the armed man fled on foot.

Sacks Esso station, 5501 South Dakota Ave. NE, was held up about 10:30 p.m. Sunday by two men who drove into the station in a green car. The driver pointed a revolver at the station manager and demanded money. After taking the bills from the employee, the pair drove away.

James Pettus, of Washington, was held up about 12:15 p.m. Sunday by two men who confronted him in the 1800 block of 5th Street NW. One of them drew a handgun, took $2 in bills and change from Pettus and escaped with his companion.

Richard Carretta, of Falls Church, was held up about 9:20 p.m. Sunday by two men who approached him as he was walking in the 1800 block of M Street NW. The men grabbed him, placed an unidentified object at his head and told him to hand over his money. After removing the money from Carretta's wallet, the pair fled.

William T. Barnes, of Washington, was held up about 10:30 p.m. Sunday by three youths, two brandishing handguns, who surrounded him at Anacostia Avenue and Hayes Street NE. "Give me that money," demanded one of the gunmen and searched Barnes' pockets, removing the money. After taking all the cash, the trio fled.

Robert Leonard Markle, of 402 10th St. SE, was held up early Sunday by two men who entered his apartment and tied his hands. The intruders then took a clock, Markle's money and his car.

Gertrude D. Diskin, Loretta A. Hagarty and Marie Pli, all members of the Sisters of Saint Joseph of Washington, were held up by two youths who approached them about 8:05 p.m. Sunday at Rodman Street and Reno Road NW. "Where is Connecticut Avenue?" the youths asked. When Miss Hagarty gave them the directions, one of youths drew a handgun and said, "This is a holdup." The pair took purses from the three women.

George W. Sickler, of Washington, was beaten and robbed about 10:40 p.m. Saturday by a man who approached him from behind in the 1100 block of 6th Street SE. The man forced Sickler to hand over his cash and credit cards and fled.

Thomas Lewis Bonge, of Miami, was robbed of a large amount of money about 10:30 p.m. Sunday in a parking lot in the 1400 block of Wisconsin Avenue NW. Two men approached Bonge and one of them placed a knife at his throat demanding, "Give me some money." Bonge handed them his cash and the pair fled.

James Schweitzer, of Annapolis, was robbed about 12:30 a.m. Saturday while he was parked in his truck in the 900 block of Mount Vernon Place NW. A young man climbed into the truck, yoked Schweitzer and asked for $10. Schweitzer replied he had no money and jumped from the truck. The man then drove off in Schweitzer's half-ton pickup truck.

Tina C. Carter, of Washington, was held up by two youths wielding knives who approached her about 1:50 p.m. Sunday at Sherman Avenue and Irving Street NW. "This is a holdup. Give me your handbag," one of them told her. The youths fled with the purse.

Richard G. Cooper, of Bladensburg, was held up about 4 p.m. Sunday when he stopped at the intersection of Kenilworth and Eastern Avenue NE. Two men, one of then wielding a small handgun, warned Cooper, "Don't make any funny moves. This is for real." After taking 50 cents from Cooper, the men fled.

Josephine Shipman, of 3538 A St. SE, was held up by a youth who approached her near her apartment building, placed a knife at her side and ordered, "Give me your purse." Taking the cash, keys and papers, the youth fled on foot.

Little Tavern diner, 630 North Capitol St., NW, was held up by a man who entered the shop and asked the clerk for a cup of coffee. As he turned to fill the order, the man said, "Give me the money." The clerk placed the money into a bag and handed it to the gunman who grabbed it, fled out of the shop and drove off in a white car.

High's dairy store, 2101 Rhode Island Ave. NE, was held up about 10:29 p.m. Sunday by two young men, one armed with a revolver. "Get away from the cash register," the gunman told the clerk. He then jumped over the counter and removed the bills from the register. The pair fled out of the shop and escaped on foot.

High's dairy store, 4800 Georgia Ave., was held up about 9:50 p.m. Sunday by two men who asked the manager for a pack of cigarettes. As she handed him the cigarettes, one of the men drew a revolver and ordered, "Get a bag and put all the money in it." Grabbing the sack full of cash, the pair ran out of the store.

INCREASING SUPPORT FOR METRIC CONVERSION

Mr. PELL. Mr. President, across the country there has been increasing support among professional engineers for the conversion of our system of weights and measures to the metric system.

I ask unanimous consent that resolutions in support of metric conversion by numerous professional societies of engineering be printed in the RECORD.

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

STATEMENT BY WASHINGTON SOCIETY OF ENGINEERS ON THE METRIC SYSTEM

When the United States and the United Kingdom were the leading industrial nations of the world, their exports of capital and manufactured goods were in such demand that they could be exported with little consideration of the systems of weights and measures in use in the importing countries. Now there are many highly industrialized nations all competing in the world market. The US and the UK are faced with stiff competition especially in the field of metal working machinery and machinery and allied products. Our total exports are declining and we have an adverse balance of trade.

The UK has officially embarked on a ten year conversion program aimed at improving her competitive position in the world market. Ninety percent of the world is on the metric system leaving the US and Canada (with 10% of the world population) the largest countries remaining on the inch-pound system.

By Congressional action the Department of Commerce is now engaged in a study to determine the impact of increasing worldwide use of the metric system on the US. The report to the Congress will be the basis for possible legislation. Ease of calculation in trade and industry and ability to compete in overseas commercial, industrial, engineering and scientific activities have been cited as justification for the changeover.

The Washington Society of Engineers believes that:

(a) An educational program is desirable to acquaint the public with the metric system.

(b) Engineering and technical societies should assist the Government in its current study.

(c) All engineering based industry (such as construction, capital goods, machinery and allied products) should assist the Government in its current study.

(d) All persons whose future activities will be significantly affected by a decision to "go metric" are urged to consider carefully its impact on the economic health of the country.

(e) Legislation will be required to fully implement the use of the metric system. A period of dual usage will be necessary with the new units of measure.

RESOLUTION OF DENVER BRANCH OF AMERICAN METEOROLOGICAL SOCIETY

Whereas, The Denver Branch, American Meteorological Society, believes that leadership of the United States is being jeopardized by the lack of acceptance of an international system of weights and measures, the Metric System, and

Whereas, The Universal Standard for observation, transmission, forecasting and reporting of Meteorological information is based upon Metric measurements and

Whereas, A broad-based educational program is required to inform and convince the average American citizen of the advantages of converting to Metric measure and the economic and social impacts of not converting to it, and

Whereas, The Meteorological Profession is in an excellent position to recommend action to political and economic leaders and to introduce Metric terminology and usage to the American public, therefore, be it

Resolved, That the American Meteorological Society adopt a policy favoring universal usage of the Metric System in the United States with the ultimate objective of complete conversion to it.

Resolved further, That in the promulgation of this policy, The American Meteorological Society.

1. Urge its local Chapters and members

to initiate and support programs which promote American acceptance of the Metric System.

2. Provide educational material and visual aids to local chapters for their use in promoting the Metric System at a "grass roots" level.

3. Urge local chapters and members to expose the American public to Metric terminology by a gradual transition to dual reporting of weather observations and forecasts in both conventional and Metric units on radio, television and newspaper. This should include temperature, barometric pressure, precipitation amounts, wind speeds, cloud bases, heights, etc.

4. Support the Public Law 90–472 Study being conducted by the National Bureau of Standards by adding Professional Meteorological emphasis and a sense of urgency to it.

RESOLUTION OF PIKES PEAK CHAPTER, ACM

Whereas, The Pikes Peak Chapter, Association for Computing Machinery, knowing that all the other major countries of the world either now use or are in the process of converting to the Metric System of weights and measures, believes that the best interests of the United States will be served by a like conversion, and

Whereas, A broad-based educational program is required to indoctrinate and convince the average American citizen of the advantages of converting to Metric measure and the economic and social impacts of not converting to it, and

Whereas, The professional members of this Association are in an excellent position individually and collectively to provide the leadership necessary to influence American economic and political leaders on the merits of early adoption of the Metric System, therefore, be it

Resolved, That the Association for Computing Machinery adopt a policy favoring increased usage of the Metric System in the United States with the ultimate objective of complete conversion to it.

Resolved further, that in the promulgation of this policy, the Association for Computing Machinery

1. Urge its local chapters and members to initiate and support programs which promote increased acceptance of the Metric System.

2. Provide educational material and visual aids to local chapters for use in promoting the Metric System at "grass roots" level.

3. Develop and furnish to news media short fillers, spot announcements and film clips that will promote Metric thinking.

4. Urge Computer Manufacturers, programmers and users to consider developing future hardware and software in Metric language to save cost of later conversion.

5. Support the Public Law 90–472 Study being conducted by the National Bureau of Standards by adding emphasis and a sense of urgency to it from the viewpoint of the Information Sciences.

RESOLUTION OF PIKES PEAK CHAPTER OF AMERICAN METEOROLOGICAL SOCIETY

Whereas, The Pikes Peak Chapter, American Meteorological Society, believe that the economic, political and military world leadership of the United States is being jeopardized by the lack of acceptance of an international system of weights and measures, the Metric System, and

Whereas, The Universal Standard for observation, transmission, forecasting and reporting of Meteorological information is based upon Metric measurements and

Whereas, A broad-based educational program is required to indoctrinate and convince the average American citizen of the advantages of converting to Metric measure and the economic and social impacts of not converting to it, and

Whereas, the Meterological Profession is in an excellent position to influence political and economic leaders and condition the American Public to Metric terminology and usage; therefore, be it

Resolved, That the American Meteorological Society adopt a policy favoring universal usage of the Metric System in the United States with the ultimate objective of complete conversion to it.

Resolved further, That in the promulgation of this policy, The American Meteorological Society

1. Urge its state and local Chapters and members to initiate and support programs which promote American acceptance of the Metric System.

2. Provide educational material and visual aids to local chapters for their use in promoting the Metric System at "grass roots" level.

3. Urge local Chapters and members to begin conditioning the American public to Metric terminology by dual reporting weather observations and forecasts in both conventional and Metric units on radio, television and newspaper. This should include temperature, barometric pressure, precipitation amounts, wind speeds, cloud bases, heights, etc.

4. Support the Public Law 90–472 Study being conducted by the National Bureau of Standards by adding Professional Meteorological emphasis and a sense of urgency to it.

RESOLUTION OF PIKES PEAK CHAPTER OF PROFESSIONAL ENGINEERS OF COLORADO

Whereas, The Executive Committee, Pikes Peak Chapter of Professional Engineers of Colorado, believe that the economic, political and military world leadership of the United States is being jeopardized by the lack of acceptance of an international system of weights and measures, the Metric System and

Whereas, The engineering profession is in the best professional position to influence political and economic leaders on the merits of early adoption of the Metric System and

Whereas, A broad based educational program is required to indoctrinate and convince the average American citizen of the advantages of converting to Metric measure and the economic and social impacts of not converting to it; therefore, be it

Resolved, That the National Society of Professional Engineers adopt a policy favoring increased usage of the Metric System in the United States with the ultimate objective of complete conversion to it.

Resolved further, That in the promulgation of this policy, the National Society of Professional Engineers

1. Urge its state and local chapters and members to initiate and support programs which promote universal acceptance of the Metric System

2. Provide educational material and visual aids to local chapters for their use in promoting the Metric System at "grass roots" level

3. Provide news media with copy, film clips and spot announcements promoting Metric thinking

4. Support the Public Law 90–472 study being conducted by the National Bureau of Standards by adding professional engineer emphasis and a sense of urgency to it.

RESOLUTION OF PIKES PEAK POST, SOCIETY OF AMERICAN MILITARY ENGINEERS

Whereas, The Peak Post, Society of American Military Engineers, believes that the military, political and economic world leadership of the United States is being jeopardized by the lack of acceptance of an international system of weights and measures, the Metric System, and

Whereas, A broad-based educational program is required to indoctrinate and convince the average American citizen of the advantages of converting to Metric measure and the economic and social impacts of not converting to it, and

Whereas, The civilian and military engineer members of this Society are in an excellent position individually and collectively to provide the leadership necessary to influence American economic and political leaders on the merits of early adoption of the Metric System, therefore, be it

Resolved, That the Society of American Military Engineers adopt a policy favoring increased usage of the Metric System in the United States with the ultimate objective of complete conversion to it.

Resolved further, That in the promulgation of this policy, the Society of American Military Engineers.

1. Urge its local posts and members to initiate and support programs which promote increased acceptance of the Metric System.

2. Provide educational material and visual aids to local posts for their use in promoting the Metric System at "grass roots" level.

3. Develop and furnish to news media short fillers, spot announcements and film clips that will promote Metric thinking.

4. Support the Public Law 90–472 Study being conducted by the National Bureau of Standards by adding engineering emphasis and a sense of urgency to it.

TRIBUTE TO ST. JOHN'S COLLEGE, ANNAPOLIS, MD.

Mr. PERCY. Mr. President, I ask unanimous consent to have printed in the RECORD the text of an address given by a member of the faculty, J. Winfree Smith, at the St. John's College commencement exercises on June 7. A quick glance will show that it is a hard-hitting speech which describes forcefully the terrible dangers we face from the spreading spirit of lawlessness. His is a message that deserves the widest possible dissemination.

Following the address are editorials published recently in the Annapolis Evening Capital and the Anne Arundel Times praising the students of St. John's College for the rational and restrained ways they have chosen to express their opposition to the war in Vietnam and Cambodia. Unique in the Nation, I believe, they have expressed with equal fervor their opposition to violence and disruption of campuses. This is probably the only college of its caliber in the Nation that continued to operate on a strictly normal schedule right through to commencement day. Not 1 day, or even one period of classes was missed. The whole college, instead, engaged voluntarily in an additional day of study of the war and of the question of dissent. Students and faculty all sacrificed a Saturday of their own time for these special extra classes.

St. John's College hopes to set an example that others may follow. Its students and faculty are striving to show that political opinion can be expressed and will be heard without violence or other forms of irrationality. Students and faculty are free to express their views as individuals or in groups, but none of them speaks on behalf of their college. The college has avoided completely taking any stand on any political issue, not because it doesn't care, but because it recognizes its mission to preserve the conditions under which freedom of inquiry can thrive. The administration will not permit its campus to become politicized. It is determined that

everything done will be characterized by the spirit of inquiry.

There is one point on which it needs the assistance of others. It must be manifest that its message and example of law-abidingness and nonviolence are getting as much attention as burnings and bombings do. It is for this reason that I pay tribute to St. John's achievements on the floor of the U.S. Senate.

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

COMMENCEMENT ADDRESS

(By J. Winfree Smith)

In a church near London there is a plaque with the following inscription:

"In the year 1653, when all things sacred in the kingdom
Were either profaned or demolished,
This Church was built by Sir Robert Shirley, Baronet
Whose singular praise it was
To do the best things in the worst times
And hope them in the most calamitous."

These times in which we live are not the worst times or the most calamitous. But they are bad times, and they threaten worse and more calamitous times. In the United States of America we have special troubles which arise partly from our power and wealth, but also, and maybe consequently, from a disrespect for law. We can understand how for many black people and others among us "law" means only an instrument of injustice and oppression. It has, however, been the greatness of the United States as a political society to have combined law and freedom, to have made freedom possible by means of law, which is the only way it is possible. We must think both of the common law and of constitutional law. Murder committed by Black Panthers endangers society; committed by police, it endangers society even more. Arson, whether committed by the frustrated poor in ghettos or by frustrated students on campuses, is as criminal as arson anywhere, and is not to be justified as a form of rhetoric. There can be no freedom where men fear the destruction of their lives and the external means of living them. A concern for life and property is not necessarily a bourgeois concern.

We the people of the United States in adopting the Constitution declared in the words of that document that it was to be the supreme law of the land. Sometimes those whose very powers depend upon the Constitution speak and act in such a way as to contravene it. The Congress in passing the Omnibus Crime Bill of 1968 may have been acting in response to the mood of the people and with respect for one kind of law. But in doing so they were also clearly attacking the independent authority of the Supreme Court. The President, when recently the Senate was about to vote on a certain nomination to that court, referred to himself as "the one person entrusted by the Constitution with the power of appointment" of Supreme Court justices. He was forgetting or deliberately ignoring the constitutional, and by no means nominal, requirement that such appointment be made only with the advice and consent of the Senate. Furthermore, it is hard to avoid the conclusion that those who talk most about law and order are not deeply concerned to preserve the law contained in the Bill of Rights, the law that directly protects specific freedoms.

Americans who would not have their country destroyed will respect both the common law and constitutional law and will respect legal process for the removal of unjust law. They will refuse to be "polarized" no matter who may be playing on which of their passions to attract them to this pole or repel them from that. In independence of soul they will not allow the present confusion of good and evil to overwhelm their power to discriminate them.

Many teachers in our colleges and universities, as well as many students, are determined that those institutions shall as such become active in political affairs. There may be occasions when such institutions have to act politically. For instance, it would surely be their duty to resist by all lawful political means a measure such as that not long ago proposed in Congress, though not passed, to require every college "to adopt an approved code of conduct for its students and teachers before it or they could be eligible for federal aid."

The reason it would be their duty is that such a measure would destroy the independence of the educational institution. A college is of service politically exactly by keeping itself out of political action. It is of service because its independence does not mean indifference, but rather the occasion and the freedom to discuss and debate political issues with rational detachment, which is the only way to obtain light upon them.

It is a truly amazing thing that some teachers and students don't believe in such debate or the possibility of any rational detachment. They have become champions of blind action. Although I've never seen it defined, I suppose that the name "activists" sometimes refers to such champions. The action they desire they often call "revolution," which is also not defined, but it seems to mean destroying all human institutions. There is an echo of Marxism in this though without the painstaking Marxist argument designed to show that in capitalist society all law and government, all religious and educational institutions are derivative from that society and in the dialectic of history destined to be destroyed along with it.

In these bad times we who belong to this small college, but all the greater for being small, often feel ourselves to be like the philosopher in the 6th book of Plato's Republic who amid the circumstances of actual political life is like one "in the storm of dust and sleet which the driving wind hurries along." If we retire to the shelter of a wall, it is partly to get a place where we may begin to see and understand what is going on in that storm and what should and could be done about it. And if we sometimes manage to ignore the storm, we do not consider that we are self-indulgent for there is a seraph that constantly whispers to us that we have a true self that is above the storm and that knowledge belongs to another world and is itself good. Others hurrying past may call to us to leave our shelter and join them. They think it is no time for business as usual. They do not know that when it is a question of the business in which we are engaged it is always time for business as usual.

Last year's commencement speaker referred to our program and the character of our studies as presupposing the authority of intellect. Let me stress the word "authority." The authority of intellect is not the authority of doctrine. St. John's College has no authoritative doctrine. But it is devoted to asking questions about all the things around us. This asking of questions is meaningful not because we can always find answers, but because learning occurs. That genuine learning does occur means that the intellect is not a servant or an instrument, but that it has authority.

Graduates of the Class of 1970. I bid you do the best things in these bad times and in the worst times, if such should overtake you. Cultivate temperance in political judgment and action. Cultivate the courage to stand firm for reason and sense against unreason and nonsense. Support what justice there is in our laws, our institutions, and our ways without losing sight of a higher justice by which they must be measured. Be intemperate and erotic in the quest for wisdom and understanding. Value charity and humility, since he who hates or condemns his brother abides in death, as someone has said.

What hope can I offer you for the future of this earth? I do not know. Things do not look good. The future is perhaps not as much within man's hands as he has persuaded himself in our modern era. It is, of course, my own belief that it is in the hands of a beneficent God, and that is ground for hope. If you do not share that belief, is there some ground? Ignorance of the future is not reason for despair, but neither is it reason for hope. Yet I would pray that it be your singular praise, no matter how bad the times, not only to do, but to find it possible to hope, the best things.

REASON OVER RIOT

The strong antiwar sentiments among students across the nation have apparently left few colleges and universities immune from strikes, demonstrations and violence during these troubled times. However, St. John's College has commendably managed to rise above the throwing of rocks and bottles, the shouted obscenities and the bitter confrontations with National Guardsmen and police.

This has nothing whatsoever to do with apathy. There is little doubt in anyone's mind that the St. John's student body is as opposed to the war in Southeast Asia as are the campuses at Berkeley, College Park and Kent. The difference is the manner in which St. John's has chosen to channel its protest.

A couple of weeks ago, many St. John's students participated in a 24-hour peace vigil that was carried off without any violent incidents. Not only did the students decide against participating in the student strikes, they voted to hold an extra day of classes. On Saturday, seminars on the Vietnam War were held at St. John's. There was no need for fixed bayonets or tear gas. This civilized approach might not satisfy the appetite for revolution prevalent among campus militants, but it was one college's way of choosing to reason rather than to riot.

And it is through reason that this nation must let its leaders know how it feels about our involvement in Vietnam and Cambodia. Occupying and burning college buildings, violent demonstrations and angry shouting matches are unlikely to bring any results other than a widening of the gap between those who feel we should leave Vietnam and those who feel our presence there is protecting the world from communism.

It is a tribute to the students and faculty of St. John's College that they chose an infinitely more responsible route to air their feelings rather than to subject themselves and a fine institution to the turmoil to which all too many colleges have fallen prey within the past weeks.

"WAY AHEAD" IS MORE LIKE IT

Residents of Annapolis who sometimes look askance as "way out" students of St. John's College peacefully make their way through town should be mindful of the fact that the students are more "peaceful" than "way out."

A case in point is the unfortunate reaction of students in colleges and universities across the nation, following the United States invasion of Cambodia. Disorder, destruction, and even death, were everyday campus occurrences. The campus of St. John's College, both in Annapolis and Santa Fe, New Mex., remained calm.

Which is not to say that students approved of the military action. On the contrary, a letter making clear their opposition was hand-delivered to the President of the United States by the president of the college. But the same letter contained a pledge to maintain a regular schedule at the college. If President Nixon did not reply favorably and thankfully to what is surely a rare communication—and Dean Robert A. Goldwin of St. John's College knows of no such response—the President is remiss.

Instead of upheaval, the students and faculty members heard two authoritative speakers discuss both sides of the Cambodian issue. An orderly, and therefore, fruitful, question and answer period followed.

The next day, a Saturday, students and faculty members participated in a seminar on Vietnam. Again, two positions—those of the United States and North Vietnam—were weighed.

The Students of St. John's College, it would seem, are not so "way out" after all. "Way ahead" is a more accurate term.

MENTAL HEALTH CENTERS FACE DENIAL OF PROMISED FEDERAL FUNDS

Mr. WILLIAMS of New Jersey. Mr. President, the low level of funding requested by this administration for community mental health centers has generated a serious and deepening crisis in mental health care in this Nation.

If any Senator feels that this is an "alarmist" statement, he need only turn to page 25 of the New York Times of June 29, 1970, for direct evidence that a serious crisis exists for the future of community mental health centers all across the country.

The article, entitled "62 Mental Health Centers, Built or Expanded With Federal Approval, Face Denial of Promised Funds," described the plight of one center in my own State of New Jersey—the Raritan Bay Mental Health Center—which was meant to serve 200,000 individuals from South Amboy, Woodbridge, Carteret, and Perth Amboy. The center has been 4 years in the planning and, if funds are forthcoming, will provide a day hospital program; two classrooms for disturbed children; a children's clinic; an adult clinic for drug addiction and alcoholism; six poverty-area centers; a 24-bed inpatient ward at a nearby hospital; 24-hour crisis walk-in clinic; a crisis intervention telephone service; an aftercare clinic for patients released from State hospitals; as well as family planning, immunization, and prenatal care services.

This is not a Public Health official's dream, Mr. President, but a well-thought-out, carefully conceived program that was painstakingly developed to fulfill a definite need. And now we are told, if funds are not forthcoming, the newly constructed building may be turned over to the police to use as a training academy.

Here we have only one example of a crisis that affects not only the present and potential patients in such Centers but also the professionals who staff them and who worked long and hard to develop the urgently needed programs that are underway in some Centers and are planned for others. I might add that this development should generate a crisis of conscience among those of us in the U.S. Senate who sponsored and voted for the Community Mental Health Centers Act and who recently voted for its expansion and continuation.

Mr. President, the New York Times article is not the only expression of concern I wish to bring to the attention of Congress today.

On June 22, the Senator from Maine (Mr. MUSKIE) also provided powerful arguments for providing adequate funding. As chairman of the Senate Special Committee on Aging, I was deeply moved by the distinguished Senator's arguments. He spoke as chairman of our Subcommittee on Health of the Elderly, but his statement to the Senate Appropriations Committee provides very specific examples of the high cost of underfunding. He reminded the Appropriations Committee, for example, that if Federal participation in Community Mental Health Centers is allowed to stand at this low level, all age groups will be affected—the crisis is not narrowly limited to any one population group.

Mr. President, the mentally ill of the Nation do not need buildings constructed as monuments to their leaders' concern; they desperately need the help, treatment, and care that was promised them under the Community Mental Health Centers Act of 1965 and reemphasized in the Community Mental Health Centers Amendments of 1969.

We should also recognize that to construct buildings with Federal funds and then render those same buildings inoperable is an intolerable waste of Federal funds, time, and effort.

I feel that Senator MUSKIE's arguments for increased funding for the staffing of Community Mental Health Centers are timely and provocative. They deserve our widespread attention and consideration, along with the informative article in the New York Times.

Therefore, I ask unanimous consent that the statement of Hon. EDMUND S. MUSKIE, "Entitled in Support of Appropriations for Staffing of Community Mental Health Centers" and New York Times article, entitled "62 Mental Health Centers, Built or Expanded with Federal Approval Face Denial of Promised Funds," be printed in the RECORD.

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

STATEMENT BY SENATOR EDMUND S. MUSKIE IN SUPPORT OF APPROPRIATIONS FOR STAFFING OF COMMUNITY MENTAL HEALTH CENTERS

As a member of the U.S. Senate Committee on Aging and Chairman of the Subcommittee on Health of the Elderly, I am most concerned about the low level of funding requested for the staffing of Community Mental Health Centers.

The Administration is requesting $60,100,000 for staffing grants to Community Mental Health Centers in 1971, an increase of $12,550,000 over the 1970 estimate. However, because of the low level of funding appropriated to Community Mental Health Centers in 1970, the National Institutes of Mental Health has informed the Committee on Aging that they now have $20,000,000 more approved applications for staffing grants than they can fund.

The proposed $60,100,000 will provide only continuation grants to those Centers with staffing grants already in operation. No funds have been proposed for new projects.

This has serious implications for the elderly in this Nation who are suffering from varying degrees of mental disorders.

Of the 165 Centers now in operation throughout the country, only 30 have special geriatric programs. It is safe to assume that the elderly are already on the low end of the priority ladder in Community Mental Health programs.

This may be true because it is very difficult to recruit trained professionals to work with older mentally ill individuals. The cure is less dramatic—the treatment of an older person makes heavy demands on the time and patience of workers, therapeutic gains are usually smaller and the mental illness is often complicated by chronic physical ailments.

It takes time to discover what is troubling an older person—perhaps he is hard of hearing and the psychiatrist has to repeat his questions many times, his so-called "hallucinations" may in fact be due to an advanced state of undetected diabetes; his "wanderings" and loss of memory may be the result of brain damage caused by a stroke.

Obviously, specialized treatment programs are necessary for these older patients. Some already in practice in the 30 Centers with geriatric programs include: sheltered workshops which help provide the older patient with a sense of usefulness and worth, coordinated medical and psychiatric treatment in order to determine the degree of actual mental disorder and the extent of physical illness, and intensive outreach services to find mentally impaired older citizens in the community and make them aware of this service.

Outreach is a most important component of any service program for recent studies indicate that the elderly may be less likely to make use of Community Mental Health Centers than younger persons. The National Institute of Mental Health reports that anywhere from 15 to 25 percent of elderly persons living in their own residences have some degree of mental disorder and that a minimum of 8 percent of these individuals are known to be severely disturbed. Yet, the number of aged persons using outpatient psychiatric clinic services is only 2 percent of the overall population.

There are some good reasons for this underutilization. First, older people are frightened and embarrassed at the thought of being treated for mental problems. Second, many—especially the poor and the isolated—are unaware that the services exist. And third, the same problems keep older people from taking advantage of these services which keep them from participating in other social programs: lack of income and poor transportation facilities.

Lack of adequate staffing for community mental health centers can create the greatest difficulties of all.

In far too many instances, the elderly person, directed to a local community health center by family or friends, arrives at that center only to wait for hours for an appointment. After a cursory examination by a psychiatrist or psychiatric social worker, who probably has no knowledge of geriatric psychiatry and who is overworked because the center is understaffed, the professional decides that there is nothing that he can do except perhaps prescribe tranquilizers for "depression" as the elderly person is, in his opinion, hopelessly "senile."

The professional, unfamiliar with geriatric psychiatry, does not ask about eating habits, social contacts, living conditions, or physical health—nor does anyone else at the center. This is not due to unfeeling negligence on the part of the staff. It happens all over the country in every outpatient psychiatric clinic or mental health center where there is not a specialized geriatric program simply because no one on the staff is trained to work with older people.

The elderly individual leaves the center discouraged and humiliated, without having his problems acknowledged or alleviated. He is not likely to return to that clinic should his condition worsen; he is much more likely to end up in a state mental hospital or nursing home, at great expense to State and Federal government.

We must also consider the relationship between the lack of adequate community mental health centers and the increasing efforts of State mental hospitals to rehabilitate elderly patients. In the past ten years,

most have stopped the practice of "dumping" older patients into back wards to languish with no care for years. They are making great efforts to get these patients back into the community.

This is a most welcome development, however we must consider what "community" means to the older person who has spent years in a mental hospital.

Because there is often no place in the outside community where an older mental patient can continue his rehabilitative treatment, to him the "community" means a nursing home where he more than likely receives custodial care—that is, no care. Thus, all of the rehabilitative efforts by the State hospital are wasted and the patient finds himself, in effect, in another back ward.

The National Institute of Mental Health estimates that 55% of the residents in nursing homes and related facilities serving the chronically ill are mentally impaired. In researching a forthcoming report on Mental Health and the Elderly, the Committee on Aging staff found that this may well be a conservative estimate. When asked by the Committee staff for the number of mentally impaired persons residing in their facilities, several nursing home administrators replied that at least 75% of the patient population was mentally impaired to some degree and that 25–40% were severely disturbed.

Many of these people could be treated in the community—if there were facilities in the community to treat them.

The Community Mental Health Centers were meant to be just such facilities. If the Centers were adequately staffed with trained personnel, thousands of Federal and State dollars could be saved in institutional care alone. Hundreds of thousands of individuals—young and old—could be saved from the agony of mental illness.

When I talk about saving the State and Federal Government thousands of dollars, it is not wishful thinking. The most recent estimated cost of mental illness in the United States—1963—was $7 billion of the total cost of all illness. More than $2 billion was spent directly for hospital and physician services and the remaining $5 billion represents estimated economic losses in productivity of persons who died or became disabled as a result of mental illness.

As of mid-1963 in the United States, about 292,000 persons aged 65 and over with mental disorders were resident in long-stay institutions—state mental hospitals, homes for the aged, nursing homes and convalescent hospitals. The only place that number has decreased has been the State mental hospital. All other long-stay facilities have increased their mentally ill aged population.

State and Federal Governments are providing expensive institutional care for a great many elderly persons who could be cared for while living in their own residences if there were adequately staffed Community Mental Health Centers to assist them.

Although as Chairman of the Subcomittee on Health of the Elderly, I am particularly concerned with problems of the aged, we must not forget that limited funding for Community Mental Health Centers will affect all age groups.

The Administration proposal calls for no new projects for 1971. The meaning is clear—no new services for the elderly, children, teenagers, young mothers or workingmen.

When we consider the mounting stresses of day-to-day living in our society today, we cannot afford to deny the care we have promised.

I urge that the level of funding for staffing of Community Mental Health Centers be raised to fund at least $20,000,000 worth of approved applications for staffing grants and the development of new projects for older Americans suffering from mental disorders. Only then will the Community Mental Health Centers Act be properly implemented.

[From the New York Times, June 29, 1970]

62 MENTAL HEALTH CENTERS, BUILT OR EXPANDED WITH FEDERAL APPROVAL, FACE DENIAL OF PROMISED FUNDS

(By Sandra Blakeslee)

Citizens' groups interested in mental health in 100 communities around the country are waiting in suspense to hear from the Federal Government in the next few days whether years of painstaking work will end in disappointment.

Each community has either just built a new neighborhood mental health center or has made plans to expand an existing one. Each has had its project approved for staffing funds by the National Institute of Mental Health. Each has raised the necessary matching local money.

But interviews with local and Federal officials in recent days have disclosed that only 38 of the projects will receive the promised Federal grants.

The 62 others, the Government has decided, will be left to dispose of what they have done as best they can. In some cases that will mean abandoning the projects altogether.

The financial dilemma facing these community groups and the officials in Washington who encouraged them demonstrates the complexities and frustration of Federal-local cooperation at a time of economic fluctuation.

TWO FEDERAL POLICIES

It is Federal policy to promote local initiatives. It is also Federal policy to hold down Government spending. The new mental health projects were caught in between.

One of them, the Raritan Bay Mental Health Center at Perth Amboy, N.J., has generated wide community approval.

"We have had every community action group going supporting us on this thing," said Dr. Robert P. Nenno, interim director of the center. "We've covered every angle we could think of in terms of supplying the mental health needs of the people in the community."

The new center, constructed at Federal expense and meant to serve 200,000 people from South Amboy, Woodbridge and Carteret as well as Perth Amboy, has taken four years to plan, Dr. Nenno said.

The center is to provide a day hospital program; two classrooms for disturbed children; a children's clinic; an adult clinic; clinic for drug addiction and alcoholism; six poverty-area centers; a 24-bed inpatient ward at a nearby hospital; a 24-hour crisis walk in clinic; a crisis intervention telephone service; an aftercare clinic for patients released from state mental hospitals; and family planning, immunization and prenatal care services.

$592,000 IN LOCAL FUNDS

The price to the community for these mental health services is $592,000 for the first year. The money has been raised. Some people have been hired, others have been promised jobs. But now the Federal contribution, $808,000, is in doubt.

"We're in the ridiculous and disgraceful position of having a building and maybe not being given the operating money that was promised," said George Otlowski, supervisor of Middlesex County.

If the Raritan Bay Mental Health Center does not get the Federal grant, Mr. Otlowski said, the new two-story building with its polished halls and brick facade may be turned over to the police for use as a training academy.

How did all this happen? According to officials at the National Institute of Mental Health, and at the Department of Health, Education and Welfare, the answer is a case study in the pull and haul of Federal budget-making.

In the fiscal year 1970, which ends tomorrow, the mental health institute was allocated about $47.5-million in staffing grants to mete out to both continuing centers that had been guaranteed aid and to new or expanding centers that had only been promised aid. After the continuing programs were accommodated, $19.3-million was left.

125 NEW REQUESTS

During the fiscal year, 125 new grant requests were made and approved by a reviewing committee at the institute. The committee considered only whether the community projects were ready to get under way.

But the $19.3-million would fund only 63 of these projects. To pay for all 125, the institute said, an additional $20-million would have been necessary. In the past the extra money might have been advanced from the next fiscal budget, but this time no funds were available.

Of the 63 projects that will be funded, 25 have already been notified. Thus 38 "winners" and 62 "losers" are still waiting to be told.

According to officials at the institute, decisions on which projects would receive funds were based on such factors as participation in model cities programs (affiliated centers were given priority) and need as determined by state recommendations. An attempt was made to give each state at least one grant, officials said. Politics, they said, played no part in the choices.

In his 1971 budget message last January, President Nixon asked for no new construction funds for community mental health centers but he did request $60.1-million for staffing grants.

Thus at first glance it would seem that the institute had money in the new fiscal budget to pay for new staffing grants. But that is not the case. The funds will go to continuing programs, which the institute is obligated to support.

ACTION BY CONGRESS

As another complicating factor, Congress has amended the Community Mental Health Act to authorize increased spending (As distinct from appropriating increased funds) for construction and staffing of neighborhood mental health centers.

Despite the tight budget, institute officials say, Congress has thus encouraged communities to keep planning, building and expanding mental health centers.

The authorized funds have not and may not ever come through, the officials say, but they are now obligated to make provisions for grants at the new, more expensive levels.

President Nixon, as he signed the legislation last March, voiced reservations, saying he thought that it would raise false hopes and that Congress could not be expected to appropriate the authorized funds.

The President's budget request of $60.1-million is now before committees in both the House and Senate. Informed sources at the institute are hopeful that Congress will increase their appropriations despite the President's objections.

But what Congress appropriates and what the Bureau of the Budget ultimately allocates, they say, may be two quite different figures.

Meanwhile, in Perth Amboy and presumably other communities awaiting word on the fate of their mental health projects, suspense is beginning to be colored by bitterness.

"It is quasi-criminal," Mr. Otlowski said, "to give people this kind of hope, to put up the building and then have it stand there like some monument for pigeons."

TRIBUTE TO SENATOR MANSFIELD

Mr. HARTKE. Mr. President, that the distinguished Senator from Montana has served as majority leader longer than

anyone else in the history of the U.S. Senate is itself a fine testament to his leadership.

But as one listens to the tributes which are now being paid to MIKE MANSFIELD, it is most striking that a prominent political leader is known by such qualities as courtesy, gentlemanliness, patience, and fairmindedness. These warm endorsements come from political opponents as well as from fellow Democrats.

This is as it should be. For MIKE MANSFIELD, as much as any other man who has served in this body, combines the qualities of decency and strength. His kindness, his fairness, and his patience have truly been the source of his greatness in the political life of our Nation.

I join my colleagues to thank the Senator from Montana for the service he has rendered this body. Above all, I wish to thank MIKE MANSFIELD for being the man that he is.

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. CHURCH. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The PRESIDING OFFICER (Mr. EAGLETON). The hour of 11 o'clock having arrived, the Chair lays before the Senate the unfinished business which the clerk will state.

The ASSISTANT LEGISLATIVE CLERK. H.R. 15628, to amend the Foreign Military Sales Act.

The Senate resumed the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHURCH. Mr. President, I ask unanimous consent that, during the course of the ensuing debate on the pending business, I may have the assistance of three staff members: Mr. Norvill Jones, Mr. Bob Dockery, and Mr. Tom Dine, two of whom being from the Foreign Relations Committee, the other of whom being my legislative assistant for foreign affairs matters.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The pending amendment is that of the Senator from Michigan, on which there is a time limit of 1 hour, starting now.

Who yields time?

Mr. MANSFIELD. Under whose control?

The PRESIDING OFFICER. Under the control of the Senator from Michigan and the majority leader, or his designee.

Mr. MANSFIELD. Mr. President, I yield the total of my time to the distinguished Senator from Idaho (Mr. CHURCH).

Mr. GRIFFIN. Mr. President, I yield such time as he may wish to consume out of the time allotted to me to the distinguished Senator from Washington (Mr. JACKSON).

The PRESIDING OFFICER. The Senator from Washington (Mr. JACKSON) is now recognized.

Mr. JACKSON. Mr. President, among other things that are disturbing about the present language of section three of the Cooper-Church amendment is the possibility that, under that section as it stands, South Vietnamese forces would be prohibited from entering Cambodia. This may not be the intent of the sponsors; but the intent of the sponsors is not clear from the wording of section three. The present language that requires that no funds be spent "to provide persons to engage in any combat activity in support of Cambodian forces." Is a South Vietnamese soldier who enters the sanctuaries acting "in support of Cambodian forces"? Suppose that these sanctuaries harbor men and materiel which could be used against either U.S. and allied forces in Vietnam or the Government of Cambodia?

Beyond the immediate circumstances in Southeast Asia, the Cooper-Church amendment as it stands raises serious questions about the future of regional security. The other side in the conflict has adopted no such strictures. It is well known that the North Vietnamese in Cambodia are receiving support from the Soviets and the Chinese. While they are engaged in a war of expansion, one would certainly not call these North Vietnamese forces "mercenaries." There is little doubt that they are there because their government considers it in their interest to be in Cambodia. There is little doubt that they would not be there if Chinese and Soviet support to North Vietnam did not make it possible. But they choose to engage in "regional aggression."

If we wish to look to a future in which regional security arrangements can be substituted for an American presence, then we must keep open the option of the President to assist nations desirous of joining together for mutual security—a principle, I might point out, that has been enshrined in the charter of the United Nations.

Now I suspect that the objection to this line of reasoning is that we should not pay large allowances and bonuses to third country forces in order to obtain their combat support in Cambodia. I agree with that.

Perhaps the most famous analysis of the inutility of mercenaries is that of Machiavelli as set forth in The Prince. I think it useful to quote from Machiavelli on the subject of mercenaries.

If a Prince—

Machiavelli wrote:

continues to base his government on mercenary armies, he will never be either stable or safe; they are disunited, ambitious, without discipline, disloyal, valiant among friends, among enemies cowardly . . .

The reason for this is that they have no love for you nor any cause that can keep them in the field other than a little pay, which is not enough to make them risk death for you. They are eager to be your soldiers as long as you are not carrying on war, but when war comes, eager to run away or to leave.

According to Machiavelli, mercenaries have no cause that can keep them in the field other than a little pay. This is certainly not true of South Vietnamese forces who enter Cambodia in defense of their country. This is certainly not true of the Khmer forces, nor is it true that those forces are unwilling to risk death.

I share Machiavelli's view that the use of mercenaries is likely to be ineffective and even ruinous. Mercenaries, in his understanding of that term, should not be supported by the United States in Southeast Asia—or anywhere else, for that matter.

Unfortunately, section 3 of the Cooper-Church amendment is now drafted so broadly as to raise doubts about whether we can act to make it possible for even the South Vietnamese to enter Cambodia as part of their own defense.

The broad language also raises doubts about whether we could support ethnic Cambodians, such as the Khmer forces, who wish to assist in the defense of their own country from invasion and who, in no sense, should be considered mercenaries. The Khmer are highly motivated, well trained and an extremely effective fighting force. Moreover, they are fully integrated into Cambodian forces; and, although their numbers are not large—perhaps 2,000—they are now a significant element in their country's defense. They receive, for their efforts, $56 per month, hardly a mercenary wage. If anything, the Khmer tribesmen more closely resemble the case of Americans residing abroad returning to the Colonies to fight the British.

It is all very well to talk about bonuses and allowances as the device by which we convert foreign troops into mercenaries. I share the sponsors' abhorrence at the enrichment of foreign officers to induce them to fight in Southeast Asia. But section three of the Cooper-Church amendment does not mention bonuses and allowances. It does use the word "provide," and that is a much broader term than objection to bonuses and allowances would suggest. It is curious, in fact, that the drafters of the Cooper-Church amendment were quite precise in their wording of section two, where they speak of "compensation or allowances," while they are strangely vague in section three.

I believe, Mr. President, that if we want to assure that the Cooper-Church amendment will not stand in the way of legitimate support to forces sent to Cambodia by their own governments and in the interest of their own governments, we must adopt the pending amendment. We should not now, when we are disengaging from Southeast Asia, pass into law a prohibition that could diminish the prospects for regional security arrangements.

Mr. President, I hope that the amendment will be adopted.

Mr. GRIFFIN. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Michigan is recognized for 5 minutes.

Mr. GRIFFIN. Mr. President, I commend the distinguished Senator from Washington, who is one of the most knowledgeable men in this body con-

cerning military affairs, upon his very logical and persuasive statement. I wish to underscore particularly his point that subparagraph (2) of the Church-Cooper amendment speaks directly in terms of paying the "compensation on allowances" of personnel in Cambodia.

As he says, if subparagraph (3) were directed only to the "mercenary" issue, so-called, an emotional argument that has been thrown out, it seems clear that the authors would have used the words or phrase "compensation or allowances." But they did not. They used broader language in subparagraph (3), to which the pending amendment is directed.

The distinguished Senator from Washington (Mr. JACKSON) points out that the reach of subparagraph (3) of the Church-Cooper language is bound to be much broader than the so-called mercenary argument.

Mr. President, in view of the time limitation and the fact that I presented my principal arguments for the amendment only yesterday, I shall not speak at length this morning but I shall reserve some of the allotted time in order, perhaps, to respond later to arguments that may be presented against the amendment.

Mr. SCOTT. Mr. President, will the distinguished Senator yield me 3 minutes?

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished minority leader.

Mr. SCOTT. Mr. President, the one principal obstacle remaining at present in the Cooper-Church amendment, in my view, is the attempt to undermine the Guam doctrine, the Nixon doctrine. And while we disagree respectfully here on the meaning of the amendment, I cannot help coming to the conclusion myself that it is not wise for the Senate to attempt to amend an Executive doctrine, a policy of this kind, in this way.

The essence of the Nixon doctrine is that Asians should be allowed to help Asians, that we should withdraw from our commitments on the territories of Asian nations.

The President has kept his promise to withdraw from Cambodia. And that is a fact—an indisputable and incontrovertible fact.

He has again kept his promise; and this expedites the end of the war.

If the Griffin amendment is agreed to, I see no personal objection to the Cooper-Church amendment. However, it has to be said that the President endorses no amendment.

I know of no change in the position of the White House. But if the Griffin amendment is agreed to, it seems to me that the Cooper-Church amendment no longer prevents Asians from helping Asians. And in view of the other aspects of the amendment, it does indeed protect the right of the President to protect American forces in Southeast Asia in the process of withdrawal.

But without the Griffin amendment, of course the reverse is true. Therefore, I would hope that many of our colleagues, including those who favor the Cooper-Church amendment, would find it possible to support the Griffin amendment. It is reasonable. It is just. It is in keeping with the national policy enunciated and broadly supported in the United States. And as I said yesterday, with respect to the argument of mercenaries, we so readily fall into semantic traps in our debates in the Senate.

The Poles who went to Scotland to train and then returned to the continent of Europe were not mercenaries. At least the Scottish girls did not so regard them.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield an additional minute to the distinguished minority leader.

Mr. SCOTT. Mr. President, the free French who returned to the territories of Europe were not mercenaries.

VE Day was not an invasion or threat to free peoples.

When the United Nations moved to repel aggression in Korea, not only the United States went there, but other nations also did the same.

The Turks who went there were not mercenaries.

The Colombians who went there were not mercenaries.

I have never heard anyone say that the South Koreans are mercenaries because of their participation in South Vietnam. It is a matter of Asians helping Asians.

And I cannot for the life of me understand the point of this matter, which seems to me to be intransigent, that we cannot accept this kind of amendment because we do not want mercenaries.

The PRESIDING OFFICER (Mr. GRAVEL). The time of the Senator has expired.

Mr. GRIFFIN. Mr. President, I yield 2 additional minutes to the minority leader.

Mr. SCOTT. Mr. President, finally, it is my hope, as I have said many times, that the Senate be given an opportunity to express itself on the war. But I do not see why the Senate would want to express itself in such terms as to tie the hands of Asians in an effort to maintain, if possible, what is left of the neutrality of Cambodia, in an effort to let the Thais and the South Vietnamese help the Cambodians.

I do not think the United States should be in there. I am glad they are out. I would not favor their return. In my judgment, the U.S. ground forces are not going to return to Cambodia. The Secretary of State has said so.

This administration has maintained its credibility. It has kept its promises. It is keeping its promises.

As the distinguished minority leader of the House of Representatives said the other day, he hopes that the President will announce this year even greater withdrawal of forces from Vietnam than heretofore indicated.

Mr. President, I join in that expression of that hope, if it is at all possible. The sooner we get out, the better.

Our differences are not in the goals of our people. Our differences are in the way to achieve them and in how the Senate expresses its wishes.

I believe the Senate can express its wishes without damaging the President's position if we make the Cooper-Church amendment far more palatable and acceptable by accepting the Griffin amendment.

I thank the distinguished Senator from Michigan for yielding.

Mr. CHURCH. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Idaho is recognized for 3 minutes.

Mr. CHURCH. Mr. President, the distinguished minority leader has said that the Nixon doctrine's essence is that Asians should help Asians.

Nothing in the Cooper-Church amendment would prevent Asians from helping Asians. Nothing in its prevents Thailand, if it deems it to be in its own national interest, from sending Thai troops into Cambodia to assist the Lon Nol regime. Nothing in it prevents South Vietnam, if it deems it to be in its own interest, from sending South Vietnamese troops into Cambodia to support Cambodian forces.

In fact, the only requirement of the Cooper-Church amendment is that the United States not hire—I repeat, not hire—these troops to fight in Cambodia.

The distinguished minority leader objects to the use of the term "mercenaries." Yet, I submit that this is the definition of the term.

Perhaps the United States should embark upon a policy of hired guns in Southeast Asia, but I personally do not think so. I believe it would be a grave national mistake. It would be an indirect way of injecting ourselves deeper into the Cambodian flank of the Indochina war via the process of creeping involvement; its profound political implications should be carefully considered and weighed.

The Church-Cooper amendment prohibits the President from embarking upon a policy of hiring mercenaries in Cambodia by secret arrangements, as was done, in fact, with respect to the Korean, Philippine, and Thai troops that were sent into South Vietnam.

The Cooper-Church amendment prescribes, in accordance with the Constitution that, if the President chooses to convert the Nixon doctrine into a policy of "Hessians Unlimited," he should come to Congress and present his case, and ask for congressional concurrence. That is after all, what the Constitution intended.

If we are to perform our duty under the Constitution, then we should reject the amendment of the Senator from Michigan.

I would like to discuss one other point about the so-called Nixon doctrine. The minority leader says we would be tampering with a Presidential doctrine if we left the Cooper-Church amendment in its present form. It is his position that Presidential doctrines should be self implementing and that Congress should have no role, other than accepting en toto the doctrine as pronounced by the President I submit to the distinguished minority leader that the Constitution lays upon the Congress not only the right but the duty to participate in the definition and implementation of the Nixon doctrine or any other Presidential declaration concerning American policy abroad.

I remind the Senate that when the President first announced this doctrine

to the country he said nothing about mercenaries. I defy Senators to find a single reference to mercenaries in the Presidential statement. He said we shall supply military weapons and equipment to governments in Asia that are willing to fight for themselves. That could be a viable and valid cause. I hope we do not distort it, through the adoption of the Griffin amendment, into something quite different, that is, into a policy of hiring foreign troops to fight a war by proxy for us in Cambodia.

I urge the Senate to reject the amendment offered by the Senator from Michigan.

Mr. SCOTT. Mr. President, will the distinguished Senator yield himself time so he can yield to me?

Mr. CHURCH. Mr. President, I yield myself 2 additional minutes.

Mr. SCOTT. Mr. President, what intrigues me——

Mr. CHURCH. Is this a question?

Mr. SCOTT. It is a question, yes. I have to lay the groundwork.

What intrigues me is the reference—the somewhat inflammatory reference—to "Hessians Unlimited." As a matter of fact, the U.S. Government is now supplying military aid and funds which do support the West Germans, including the Province of Hesse-Cassel; and we are, in effect, by the Senator's definition, aiding Hessians in Germany, and I gather he thinks that is all right.

Mr. CHURCH. That is where Hessians belong.

[Laughter.]

Mr. SCOTT. That is right, and that is where they are getting U.S. help.

Does the Senator not feel that supplying military aid to the Middle East and supplying military aid to West Germany is the same sort of thing as aid to Asians to help Asians; and why would we make a distinction and refuse to help one part of the world while we are perfectly willing to commit ourselves, as we should be, to help other parts?

Mr. CHURCH. I see a vast difference between giving military weapons and supplies to governments with which we are allied that are willing to defend themselves, and hiring mercenary troops to fight in a third country.

If the Senator sees no distinction between these two policies, he and I are simply in irreconcilable disagreement.

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

Mr. CHURCH. Mr. President, I yield 5 minutes to the distinguished majority leader.

Mr. MANSFIELD. Mr. President, I do not believe we have obligations all over the world and, certainly, as far as our 515,000 U.S. troops and dependents in Western Europe, I think it is entirely too large a number. We have no obligation to maintain such a force there nor do we have an obligation to expend $14 billion of the Defense budget to do so.

Machiavelli has been referred to during the course of debate. Machiavelli was noted for his deviousness and slyness. What the Cooper-Church amendment seems to do is lay the cards on the table so there will be no misunderstanding.

We have no obligation to defend Cambodia; there are no treaty commitments, no executive agreements, no obligations of any sort between the United States and Cambodia.

The Cooper-Church amendment was intended to preclude U.S. commitment to a new war in Cambodia, at least to the extent that there should be no war without prior consultation between the President and Congress.

The Cooper-Church amendment precludes an ongoing U.S. commitment to Cambodia in two ways: First, under subsection (2) it prohibits the use of U.S. personnel in Cambodia to engage in combat or to offer military instruction. We have 17 military attachés at this moment in Phnom Penh. Second, subsection (3) prohibits the United States from employing the forces of other nations for war service in Cambodia.

It is section (3) that the Griffin amendment seeks to nullify.

The Griffin amendment would allow us to contract with the forces of other nations in order to carry on the war in Cambodia—without the approval of Congress.

So in effect the Griffin amendment would accomplish by indirection what the Cooper-Church amendment seeks to prevent directly.

Cooper-Church does not prevent other nations from assisting Cambodia with troops, with supplies or whatever.

Cooper-Church does not prevent outright our own Nation from arming Cambodia—so long as the Congress consents to a war in that nation.

The present Cooper-Church amendment does not ban mercenaries: it just says that if mercenaries are needed to implement our national policy then the Executive and the Congress will be jointly involved in that decision.

Why is a blank check sought to give the executive branch in advance the authority to hire mercenaries?

Where are these mercenaries presently needed to fight?

The advance authority to hire mercenaries in no way can be justified under the Commander in Chief argument; the argument that the Commander in Chief must be given the authority to make the fast-breaking tactical decisions to repel attack or to pursue attacks.

The most deliberative of situations is the contractual negotiations that lead to the specified payment for the mercenaries.

The recent disclosures of the amounts paid by the United States to the Thais and others, and it is all in the RECORD—for fighting in Cambodia is most revealing.

The overseas allowance paid to the Thai is many times what is paid to our own fighting men. Whether this is a good contract or not is open to question—but the arrangements that were made certainly reflect that they were negotiated in secret and without inhibition.

Never has a policy of hiring mercenaries to implement a national policy been successful through history.

Nor with the Cooper-Church amendment are we saying to the world that we are unwilling or unable to assist nations that seek to help Cambodia.

The Military Assistance Act, the Foreign Assistance Act, the Military Sales Act—all of these laws give the President authority to help any nation in the President's discretion. About $1.5 billion is available for this purpose this year alone.

What the Cooper-Church amendment does prevent is the direct hiring by the United States of foreign troops to fight in Cambodia. To do that, Congress must first approve.

It prevents the employment of mercenaries.

We in this Nation should be particularly sensitive to the use of hired troops—it was the Hessian hired by the British who fought against our forefathers to prevent our independence and the freedom we cherish so much.

Mr. GRIFFIN. Mr. President, how much time remains on each side?

The PRESIDING OFFICER. The Senator from Michigan has 13 minutes remaining. There are 17 minutes remaining to the Senator from Idaho.

Mr. GRIFFIN. Mr. President, I wonder if the Senator from Idaho would agree to yield time, in view of the fact that he has more time remaining on that side.

Mr. CHURCH. Mr. President, I have received several requests, making that difficult.

I am happy to yield next to the distinguished chairman of our Foreign Relations Committee.

Mr. FULBRIGHT. Mr. President, the majority leader has stated the case extremely well. I call the attention of my colleagues to the table I inserted in the RECORD yesterday, which appears on page 22031 of the RECORD, showing how much we pay the Thais relative to what we pay our own people.

We had three agreements to pay troops. The agreement with the Thais was one of the larger ones, and we had agreements with the Koreans and the Filipinos. Not only is it extremely expensive, but I do not think it is very effective.

I do not approve of this practice, but if the President expects to control South Vietnam and to keep it as one of our possessions and under our control, I think this is a very ineffective and very improvident way to do it, I do not believe our experience with the Filipinos and the Thais as fighting allies has been successful. The Koreans have fought better, but they have also cost a great deal more.

The only argument that has been made is that if we must keep Americans there, it is better to have Asians killed and wounded than our own people. That is on the assumption that we are determined to stay there. If this is going to be a permanent occupation, then that argument would have some validity. But if the President means his stated policy that he expects to withdraw from Southeast Asia, then it seems to me an extremely improvident thing for the Senate to authorize allowing this Government to hire other soldiers to do our fighting.

As the majority leader said, the bill does not prohibit our doing it; all it requires is that Congress be consulted and know about it. We did not know what was done in the Philippine, Korean, and Thailand matter until long after the fact.

The original reason for hiring those soldiers was not that we needed them or because they were good soldiers. It was to create the impression—this happened

under the previous administration, under Mr. Johnson as President and Secretary of State Rusk—that other Asian countries were all behind us as a political matter; that is, that they were in complete accord with our policy of occupying and controlling South Vietnam—which in my opinion was not the case, I believe if they had not been paid the exorbitant allowances, which are set out in the RECORD of yesterday, they would not have been interested in fighting.

It was exactly the same with Honduras and its alleged aid to South Vietnam. They were not about to send this small planeload of materials to Vietnam unless they were paid for it. We picked it up and paid all the expenses.

It was to create the impression—Secretary Rusk used to boast of it—as to how many countries approved of our policy. Very few of them approved of it whom we did not pay. Most of those who approved of it were recipients of large amounts of our money.

That was the origin of the policy in Vietnam of paying other troops. I hope the President would not continue that policy. But if the administration is to continue it, I cannot imagine why it would not want to do so under the provision that Congress be brought into the matter and authorize it.

With the Cooper-Church amendment, we still have the option of authorizing it at a later date when it is needed.

As the majority leader said, there is no evidence whatsoever as to who the administration is going to hire to pay. In view of the extreme exigencies in our money market, and the bankruptcy of one of our largest corporations, I cannot imagine that we would approve of this improvident way to spend the kind of money in the future as we have been paying the Thais and the Koreans.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished Senator from Colorado.

Mr. DOMINICK. I thank my friend from Michigan.

Mr. President, some time ago, probably 10 days or 2 weeks ago, I had a colloquy on the subject which we are now discussing with the distinguished Senator from Kentucky (Mr. COOPER). The chairman of the Foreign Relations Committee, to the best of my recollection, was not here at that time, but the distinguished Senator from Idaho was, and both Senator COOPER and Senator CHURCH stated rather unequivocally during that colloquy that section (3) as it is now written would prevent us from giving any assistance to people who were engaged in a joint Asian defense effort.

This would include, as I understand it, the Thais, who might want to come to the aid of Cambodia, or the South Vietnamese, who might want to come to the aid of Cambodia. It would almost certainly preclude any Koreans who might want to do that.

In my method of thinking, it sharply downgrades the ability of the United States to preserve a geographic entity known as South Vietnam, or to assist any of those Asian nations from being overrun by the North Vietnamese.

I think we should keep in mind in this debate that it is not the South Vietnamese who invaded North Vietnam. It is not the South Vietnamese who invaded Cambodia. It is not the South Vietnamese who invaded Laos. On each occasion it was the North Vietnamese who put their troops and their forces into each one of those countries, doing their level best to overcome the governments of those countries and to run over the top of the people who are living there.

So it seems to me, in terms of sheer equity, if we are not looking at anything else but equity, that there should be an opportunity for those nations to defend themselves and that we who believe in self-determination—should help them determine their own future. I have heard the distinguished chairman of the Foreign Relations Committee speak on many occasions about the value of self-determination. This amendment would give us the option to permit free Asian nations to defend themselves against the North Vietnamese who are well-armed, well-equipped, and imbued with the idea that they are the natural military rulers of Southeast Asia—

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. DOMINICK. May I have an additional half-minute?

Mr. GRIFFIN. I yield 1 additional minute to the Senator from Colorado.

Mr. DOMINICK. Unless we adopt the type of amendment the distinguished Senator from Michigan has proposed, we are not going to be able to continue the Nixon doctrine, nor are we going to be able to effectively hold ourselves up as a country which is a leader in the idea of self-determination for other people in other countries in other areas of the world.

It seems to me that is the fundamental concept we are discussing this morning in the process of considering the pending amendment.

I thank my friend from Michigan for yielding.

Mr. CHURCH. Mr. President, I yield 3 minutes to the distinguished Senator from Kentucky (Mr. COOPER).

Mr. COOPER. Mr. President, the statements of the majority leader (Senator MANSFIELD) and the Senator from Idaho, (Senator CHURCH) have covered thoroughly the purposes of subsection (3) of our amendment. Much has been said about mercenaries. I suppose that one factor which causes us to think so seriously of mercenaries derives from our early history. The Declaration of Independence, recites as one of the complaints of the colonies against the King of England:

> He is at this time transporting large Armies of foreign Mercenaries to compleat the works of death. . . .

Mr. President, it is suggested by the Senator from Pennsylvania that subsection (3) of our amendment is not clear. That same suggestion has been made, during this debate to other sections of the Cooper-Church amendment. I feel sure that the purposes of our amendment are very clear to those who oppose it in the Senate, and also to the administration.

Subsection (3) is very clear. It provides that no funds shall be available to contract with another country to provide its nationals for military instruction or combat activities in support of Cambodia in Cambodia.

The only purpose of the Griffin-Jackson amendment is to remove the prohibition of subsection (3) to authorize the United States to provide funds to another country and its nationals for military instruction and combat support in Cambodia. If that is not the purpose, then I think we should know what the purpose is.

The argument has been made that our amendment scuttles the Guam doctrine. I support the Guam doctrine. But I point out that the Guam doctrine is not self-executing. A justification would be made to the Congress before embarking upon a program to support Cambodia, a new commitment to a country to which we owe no obligation.

It is said the military operation is over. I assume it is upon the part of the United States ground troops. There is no obligation to Cambodia. But it is suggested by this amendment—otherwise why are we asked to support it?—that in the future, the United States will make available funds to other countries to send forces into Cambodia, to support Cambodia—a country, I repeat, to which we owe no obligation.

No one could foresee the consequences of U.S. entry into Vietnam. No one can foresee the consequences if the U.S. makes a commitment to support Cambodia. Perhaps it will be for the best; perhaps not. We have had an unhappy experience in Vietnam. The Congress and the country should have all the facts before a commitment is made.

Our amendment would simply say, as far as the Guam doctrine is concerned, that if there is justification for the United States to embark upon a venture in Cambodia with future unknown, then it is the duty of the administration to come before Congress, present the facts, and let Congress exercise its constitutional duty, which is very clear in this case, to deny or give support.

I hope very much that the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. Mr. President, how much time remains on either side?

The PRESIDING OFFICER. Nine minutes remain to the Senator from Michigan, 7 minutes to the Senator from Idaho.

Mr. GRIFFIN. Mr. President, I yield 3 minutes to the distinguished chairman of the Committee on Armed Services, the Senator from Mississippi.

Mr. STENNIS. Mr. President, I thank the Senator from Michigan.

My remarks are directed to section (3), and the proposal made to amend it by the Senator from Michigan, wherein he adds the words "by U.S. personnel," which limits the application of the section (3).

Mr. President, very briefly put, my thought on the subject is rather broad, and not directed at the immediate situation.

I was in Thailand about the year 1958. This war was not a hot matter at that time. Standing there looking at the map showing the peninsula of Southeast Asia, and thinking over its possible future, it

occurred to me that that area would be taken over some day—to be frank about it—by the Chinese Communists, unless there was some kind of an effective league or organization or alliance among those nations of Southeast Asia whereby they could collectively save each other, themselves included.

I have never been in favor of us going in there with military manpower to do all of this fighting. The main thrust of the power and the fighting should come and must come from those Asiatic countries. I still believe that. Those nations are still standing on the brink of being taken over in the course of decades, unless there is some kind of effective organization among themselves that can cope with this situation and protect each other militarily.

To bind ourselves here, with the hard force of law and not be permitted even to encourage them—they seem to be wanting to move more now than heretofore in the direction that I have described as necessary—I think we would be making a serious mistake. It is a grave mistake to bind ourselves in the cold hard print of law that we are not going to permit any activity toward encouraging these mercenaries, or whatever you call them, or to encourage or even half finance a coalition between these struggling nations of Southeast Asia.

I believe this is the only practical way, in the long run, for them to save their freedom, or save their necks, to save themselves from final engulfment.

I hope we would not add, here, this extreme restriction, although it is written with good faith, that those who wrote section (3) insist on having.

Let us not close the door on them as they finally begin to move.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STENNIS. I thank the Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as remains.

The adoption of the amendment proposed by the Junior Senator from Michigan would erase section 3 of the Cooper-Church amendment, and I hope that the Senate will defeat it.

Section 3 of the Cooper-Church amendment simply says that before the United States uses the taxpayers' money to pay the bills for third country forces to fight in Cambodia, the President must come to the Congress to have such a program authorized and funded. Members of this body are well aware of the revelations that have come from the Symington subcommittee hearings concerning the secret arrangements entered into as a part of the high-priced deals that sent military units from Thailand, South Korea, and the Philippines to show their flag in South Vietnam. Surely Senators will agree that the Congress has a right—and a responsibility—to review and pass judgment on any arrangements between the executive branch and another country, designed at our expense to induce, and make it more profitable for, its troops to fight in Cambodia.

Let me make it clear that the Cooper-Church amendment does not—in any way—prevent other countries from coming to the aid of Cambodia. The Thais or the South Vietnamese can use their forces to fight for the Lon Nol government—there is nothing in the amendment to prevent that. And the amendment does not prevent our furnishing military aid—weapons, ammunition, and supplies—directly to Cambodia, as, indeed, has already been done. But the Cooper-Church amendment does prevent—without congressional approval—the kind of undercover arrangements that were used to make it so profitable for Thailand, South Korea, and the Philippines to send their forces to Vietnam.

The Senator from Michigan said yesterday that his amendment does not provide for any additional authority to the executive branch. I agree. Which raises the questions of what the executive branch would like to do in the way of hiring other forces to fight in Cambodia, and what authority it thinks it has to carry out any such arrangements. The authority which was used to pay bonuses to the Thai, South Korean, and Filipino troops in South Vietnam does not apply to Cambodia. And the Foreign Assistance Act certainly does not contemplate the hiring of mercenary forces with foreign aid funds. So it would seem that the President will be required to come to the Congress to ask for authority, regardless of whether the Griffin amendment is adopted. Since that is all that the Cooper-Church amendment requires, I see no point in the Griffin amendment—except as a means of forcing the Senate to give a tentative commitment, in advance, to whatever proposal the executive branch chooses to send up.

I hope that the Senate will not tie its hands in dealing with this issue in the future.

Mr. President, in summary, all that section 3 of the Cooper-Church provision says is that if the executive branch wants to enter into agreements to pay for other nations to fight in Cambodia, that it must come to Congress for approval. Passage of the Griffin amendment would, in effect, put the Senate on record as giving blanket endorsement to a policy, of unknown scope and dimension, of hiring mercenaries to fight a war for the United States in Cambodia. It would tend to tie the hands of the Senate from considering, on the merits, any proposal to implement such a policy that the executive branch may send up to Congress in the future. Finally, it would show that the Senate has learned little from the years of creeping involvement which drew us so deeply into the quagmire of Southeast Asia.

We have had much too much sad experience with blank checks in the past to write another one now. For that reason, Mr. President, I sincerely hope that the Senate will not tie its hands in dealing with this issue in the future and that it will reject the amendment offered by the distinguished Senator from Michigan.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I yield myself such time as may remain.

Mr. President, I want to express my appreciation to the distinguished Senator from Washington (Mr. JACKSON) for his strong support and his very persuasive arguments, and as well to the distinguished Senator from Mississippi, the chairman of the Committee on Armed Services, who has put his finger, I think, on the principal point involved here.

President Nixon is in the process of withdrawing U.S. troops from Indochina. His program to do that involves two major points. Those two points are the Vietnamization program and the Nixon doctrine. The Nixon doctrine, announced on Guam, said to the nations of Asia, "We are concerned about what happens in Asia, but you can no longer count on U.S. troops to do the fighting to defend you. We will help with economic and military assistance"; and, in effect, it said that we encourage regional security arrangements.

In subparagraph (3) of the Cooper-Church amendment, it seems to me that Congress would be saying, if we were to adopt it, that the Nixon doctrine would apply to every non-Communist nation in Asia except Cambodia, the nation most in need of the application of the Nixon doctrine.

Some say that we have no commitment to Cambodia and that, therefore, we should have no interest in what happens. But we do have treaty commitments to Thailand, for example, and it is very important to the United States what happens to Cambodia, a neighboring nation to Thailand.

The main focus of the Cooper-Church amendment is on the use of American troops in Cambodia. I can understand and I share the viewpoint of those who say that we do not want U.S. troops used to fight in Cambodia. But I cannot understand the position of those who want to discourage other non-Communist nations in Southeast Asia from coming to the aid of Cambodia. Surely, it is in the interests of getting our troops out of Southeast Asia that we do everything within reason to encourage cooperation and assistance from other non-Communist nations in that part of the world. We should not cut off aid to non-Communist nations because they assume responsibility for regional security.

As it stands, the Cooper-Church amendment, particularly subparagraph (3) is too broad. It lays down a broad prohibition policy. It discourages rather than encourages the kind of regional cooperation and security we want.

The argument has been made this morning that the amendment which the Senator from Washington and I have cosponsored would provide some blank check authority. It would do no such thing. The pending amendment to the Cooper-Church amendment would not grant any new authority whatsoever. Indeed, it would grant no authority. It would merely nullify and strike out a prohibition policy which is laid down in the Cooper-Church amendment. It would keep the options open; it would keep the doors open.

Congress still must approve foreign aid authorization, foreign aid appropriation legislation. In those hearings, in the discussions, the arguments can be made as to how much foreign assistance should

be provided. But let us not, in the Cooper-Church amendment, say to the world, and particularly to the free Asians of Asia, "We will not help you"; because that is what subparagraph (3), in effect, says. This is not in the interest of free Asia, and it is not in the interest of the United States.

Therefore, Mr. President, I hope that the pending amendment will be adopted.

The PRESIDING OFFICER. Who yields time?

Mr. GRIFFIN. I yield back the remainder of our time.

Mr. CHURCH. I yield back the remainder of our time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

Mr. GRIFFIN. Mr. President, in view of the fact that the time for the vote was set at 12 noon, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that the quorum call be rescinded.

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

The question is on agreeing to the amendment offered by the Senator from Michigan (Mr. GRIFFIN). 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. LONG (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from Wisconsin (Mr. NELSON). If he were present and voting, he would vote "no"; if I were at liberty to vote, I would vote "yea." I withdraw my vote.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Minnesota (Mr. MONDALE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. MONDALE), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. FANNIN) is detained on official business.

If present and voting, the Senator from Arizona (Mr. FANNIN) and the Senator from South Dakota (Mr. MUNDT) would each vote "yea."

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCOTT asked for the regular order.

The result was announced—yeas 47, nays 46, as follows:

[No. 190 Leg.]

YEAS—47

Allen	Curtis	Jackson
Allott	Dole	Jordan, Idaho
Anderson	Dominick	McClellan
Baker	Eastland	McGee
Bellmon	Ellender	Miller
Bennett	Ervin	Murphy
Bible	Fong	Packwood
Boggs	Goldwater	Pearson
Byrd, Va.	Griffin	Percy
Byrd, W. Va.	Gurney	Prouty
Cannon	Hansen	Scott
Cook	Holland	Smith, Ill.
Cotton	Hruska	Sparkman
Stennis	Talmadge	Williams, Del.
Stevens	Thurmond	Young, N. Dak.
Symington	Tower	

NAYS—46

Aiken	Hatfield	Muskie
Bayh	Hollings	Pastore
Brooke	Hughes	Pell
Burdick	Inouye	Proxmire
Case	Javits	Randolph
Church	Jordan, N.C.	Ribicoff
Cooper	Kennedy	Saxbe
Cranston	Magnuson	Schweiker
Eagleton	Mansfield	Smith, Maine
Fulbright	Mathias	Spong
Goodell	McCarthy	Tydings
Gore	McGovern	Williams, N.J.
Gravel	McIntyre	Yarborough
Harris	Metcalf	Young, Ohio
Hart	Montoya	
Hartke	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, for.

NOT VOTING—6

Dodd	Mondale	Nelson
Fannin	Mundt	Russell

So Mr. GRIFFIN's amendment No. 716 was agreed to.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Several Senators, including Mr. SCOTT, moved to lay the motion on the table.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAVEL). The Senate will be in order so that we can hear the parliamentary inquiry.

The Senator may state the parliamentary inquiry.

Mr. DOLE. Mr. President, is the vote on the motion to reconsider?

Mr. PASTORE. Mr. President, I ask for the regular order. A motion has been made to lay the motion to reconsider on the table.

The PRESIDING OFFICER. The Senate will be in order. A parliamentary inquiry is in order. We have not started the rollcall vote. An inquiry of this kind is in order.

Mr. DOLE. Mr. President, will the Chair advise me whether we are voting on a motion to table or a motion to reconsider?

The PRESIDING OFFICER. The Senate is voting on whether to table the motion to reconsider the vote by which the amendment was agreed to. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER (Mr. GRAVEL). Senators will please take their seats. The rollcall has been suspended until there is decorum in the Chamber. Senators will please be seated. Every Senator is aware of all the interest in this vote. It is the desire of the Chair that no mistakes be made by the clerks.

The Senate will be in order.

The call of the roll was resumed and concluded.

Mr. BYRD of West Virginia (after having voted in the affirmative). On this vote I have a live pair with the junior Senator from Wisconsin (Mr. NELSON). If he were present and voting, he would vote "nay." If I were permitted to vote I would vote "yea." I withhold my vote.

Mr. KENNEDY. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Connecticut (Mr. DODD), the Senator from Louisiana (Mr. ELLENDER), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The result was announced—yeas 46, nays 47, as follows:

[No. 191 Leg.]

YEAS—46

Allen	Ervin	Packwood
Allott	Fannin	Pearson
Anderson	Fong	Percy
Baker	Goldwater	Prouty
Bellmon	Griffin	Scott
Bennett	Gurney	Smith, Ill.
Bible	Hansen	Sparkman
Boggs	Holland	Stennis
Byrd, Va.	Hruska	Stevens
Cannon	Jackson	Talmadge
Cook	Jordan, Idaho	Thurmond
Cotton	Long	Tower
Curtis	McClellan	Williams, Del.
Dole	McGee	Young, N. Dak.
Dominick	Miller	
Eastland	Murphy	

NAYS—47

Aiken	Hollings	Muskie
Brooke	Hughes	Pastore
Burdick	Inouye	Pell
Case	Javits	Proxmire
Church	Jordan, N.C.	Randolph
Cooper	Kennedy	Ribicoff
Cranston	Magnuson	Saxbe
Eagleton	Mansfield	Schweiker
Fulbright	Mathias	Smith, Maine
Goodell	McCarthy	Spong
Gore	McGovern	Symington
Gravel	McIntyre	Tydings
Harris	Metcalf	Williams, N.J.
Hart	Mondale	Yarborough
Hartke	Montoya	Young, Ohio
Hatfield	Moss	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Byrd of West Virginia, for.

NOT VOTING—6

Bayh	Ellender	Nelson
Dodd	Mundt	Russell

So the motion to table the motion to reconsider the vote by which the Griffin amendment was agreed to was rejected.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The question is on the reconsideration of the vote.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair will hear the Senator from Kansas on his parliamentary inquiry.

Mr. DOLE. Mr. President, was the motion to reconsider made by a Senator on the prevailing side?

Mr. MANSFIELD. No, Mr. President, quite the contrary. I was on the losing side.

Mr. STENNIS. Mr. President, may we have order so that we can hear?

The PRESIDING OFFICER. The Senate will be in order.

The Chair will rule that the point of order is made too late at this point. The point of order should have been made at the time the motion to reconsider was entered.

Mr. DOLE. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Can the ruling of the Chair be appealed from?

Mr. MONDALE. Mr. President——

The PRESIDING OFFICER. Certainly, a Senator can appeal from the ruling of the Chair, but in this case it is an accomplished fact.

Mr. MONDALE. Mr. President, I move to reconsider the vote.

Mr. MILLER. Mr. President, a point of order. Is not that the question?

The PRESIDING OFFICER. The motion of the Senator from Minnesota is not in order.

Mr. SCOTT. Mr. President, I demand the yeas and nays, if they have not been ordered.

Mr. MANSFIELD. Just a moment, Mr. President. If the fact that I was on the wrong side causes any embarrassment, I shall be glad to withdraw my motion to reconsider and bow to the Senator from Minnesota.

The PRESIDING OFFICER. The Chair has already ruled on that point. The yeas and nays have been ordered on the motion to reconsider, and the clerk will call the roll.

The VICE PRESIDENT assumed the chair.

The bill clerk proceeded to call the roll.

Mr. PASTORE. Mr. President, I think all Senators ought to be instructed to take their seats.

The VICE PRESIDENT. The Senate will be in order, so that the votes can be heard.

The rollcall was continued.

Mr. BYRD of West Virginia (when his name was called). Mr. President, on this vote I have a pair with the junior 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." Therefore, I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "nay."

The result was announced—yeas 49, nays 46, as follows:

[No. 192 Leg.]

YEAS—49

Aiken	Hatfield	Muskie
Bayh	Hollings	Pastore
Brooke	Hughes	Pell
Burdick	Inouye	Proxmire
Case	Javits	Randolph
Church	Jordan, N.C.	Ribicoff
Cooper	Kennedy	Saxbe
Cranston	Magnuson	Schweiker
Eagleton	Mansfield	Smith, Maine
Ellender	Mathias	Spong
Fulbright	McCarthy	Symington
Goodell	McGovern	Tydings
Gore	McIntyre	Williams, N.J.
Gravel	Metcalf	Yarborough
Harris	Mondale	Young, Ohio
Hart	Montoya	
Hartke	Moss	

NAYS—46

Allen	Byrd, Va.	Ervin
Allott	Cannon	Fannin
Anderson	Cook	Fong
Baker	Cotton	Goldwater
Bellmon	Curtis	Griffin
Bennett	Dole	Gurney
Bible	Dominick	Hansen
Boggs	Eastland	Holland
Hruska	Packwood	Stevens
Jackson	Pearson	Talmadge
Jordan, Idaho	Percy	Thurmond
Long	Prouty	Tower
McClellan	Scott	Williams, Del.
McGee	Smith, Ill.	Young, N. Dak.
Miller	Sparkman	
Murphy	Stennis	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, against.

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

So the motion to reconsider was agreed to.

The VICE PRESIDENT. Without further debate, the question recurs on agreeing to the amendment of the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. On this question, the yeas and nays have been ordered.

Mr. BYRD of West Virginia addressed the Chair.

The VICE PRESIDENT. The Senator from West Virginia is recognized.

The Senate will be in order.

Mr. BYRD of West Virginia. Mr. President, I ask that the Chair state to the galleries the provisions in rule XIX which preclude demonstrations of approval or disapproval upon the announcement of a vote.

The VICE PRESIDENT. The Chair advises the occupants of the galleries that they are guests of the Senate and they must not in any way applaud or show approval or disapproval of the action of the Senate. If the galleries show any discourtesy or action, the Chair will feel compelled to have the galleries cleared.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia (when his name was called). On this vote I have a live pair with the junior Senator from Wisconsin (Mr. NELSON). If he were present, he would vote "nay." If I were permitted to vote, I would vote "yea." I therefore withhold my vote.

The assistant legislative clerk resumed and concluded the call of the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL), would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The yeas and nays resulted—45 yeas, 50 nays, as follows:

[No. 193 Leg.]

YEAS—45

Allen	Dole	Jordan, Idaho
Allott	Dominick	McClellan
Anderson	Eastland	McGee
Baker	Ervin	Miller
Bellmon	Fannin	Murphy
Bennett	Fong	Packwood
Bible	Goldwater	Pearson
Boggs	Griffin	Percy
Byrd, Va.	Gurney	Prouty
Cannon	Hansen	Scott
Cook	Holland	Smith, Ill.
Cotton	Hruska	Sparkman
Curtis	Jackson	Stennis
Stevens	Thurmond	Williams, Del.
Talmadge	Tower	Young, N. Dak.

NAYS—50

Aiken	Hatfield	Moss
Bayh	Hollings	Muskie
Brooke	Hughes	Pastore
Burdick	Inouye	Pell
Case	Javits	Proxmire
Church	Jordan, N.C.	Randolph
Cooper	Kennedy	Ribicoff
Cranston	Long	Saxbe
Eagleton	Magnuson	Schweiker
Ellender	Mansfield	Smith, Maine
Fulbright	Mathias	Spong
Goodell	McCarthy	Symington
Gore	McGovern	Tydings
Gravel	McIntyre	Williams, N.J.
Harris	Metcalf	Yarborough
Hart	Mondale	Young, Ohio
Hartke	Montoya	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mr. Byrd of West Virginia, for.

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

The VICE PRESIDENT. On this vote the yeas are 45 and the nays are 50. The amendment is rejected. A motion to reconsider is not in order.

AMENDMENT NO. 746

Under the previous order, the Chair lays before the Senate amendment (No. 746) of the Senator from Washington (Mr. JACKSON), which the clerk will report.

The ASSISTANT LEGISLATIVE CLERK. On page 5a, line 18, after the word "in", insert "direct".

Mr. JACKSON. Mr. President, I yield such time as I may require.

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

Mr. JACKSON. I yield.

Mr. MANSFIELD. Mr President, the Senator from Washington has 1 hour under his amendment I wonder whether it would be possible, if it meets with his approval, to make it shorter.

Mr. JACKSON. One-half hour would be agreeable to me.

Mr. MANSFIELD. I thank the Senator.

Mr. President, I ask unanimous consent that instead of the 1-hour limitation, the time be reduced to 30 minutes, with the time to be equally divided between the Senator from Washington (Mr. JACKSON) and the Senator from Idaho (Mr. CHURCH).

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

Mr. JACKSON. Mr. President, in attempting to clarify the precise prohibitions on Presidential action that would result from the adoption of the Cooper-Church amendment, the distinguished Senator from Idaho, on June 10, discussed its provisions at some length. Despite that discussion, however, the precise meaning of section 4 dealing with combat activity in Cambodian air space, is still unclear.

The amendment I am offering to this section would insert the word "direct" on page 5, line 18, after the word "in." The section would then read:

(4) conducting any combat activity in the air above Cambodia in direct support of Cambodian forces.

I offer this one-word change, not with a view to making a substantive change in the Cooper-Church amendment, but, rather, to incorporate in the amendment

itself what we take to be the principal objective of its sponsors—that we refrain from activity that could lead to getting bogged down in Cambodia. Direct air support to Cambodian forces might lead us down that path. Air activities, however, aimed primarily at the defense of our forces in Vietnam, and the forces of the South Vietnamese, would be consistent with my understanding of the intention of the Cooper-Church amendment.

It is my impression that the sponsors of the Cooper-Church amendment would not wish to prohibit the use of American aircraft to interdict the conveyance of supplies on Cambodian trails if those supplies were headed for Vietnam where they could be used against American and South Vietnamese forces. Nor, I believe, would the Senators from Idaho and Kentucky wish to prevent the President from ordering our aircraft to bomb the sanctuary areas should they be reoccupied by the adversary and once again used as a base for attacks on American and allied troops in Vietnam.

That being the case, I can see little reason to take exception to the amendment that I have proposed. Its effect is to clarify an understanding that would otherwise remain ambiguous. For example, under the existing language of section 4, air support to South Vietnamese forces in the sanctuaries, or air attacks on the sanctuaries themselves, could be construed as indirectly supporting Cambodian forces—by, for example, relieving pressure on Cambodian forces fighting elsewhere. Or, to take another example, suppose that at some future time the North Vietnamese should use the sanctuaries to supply war materiel for use against both the American and allied forces in Vietnam and the Cambodian forces in Cambodia. Would air interdiction under these circumstances constitute support of Cambodian forces?

I might add that I am very concerned that half the Senate is reading the Cooper-Church amendment in one way and half the Senate is reading it quite another. This is the precondition for bitter acrimony at some later date when one-half of the Senate may feel that the law is being violated while the other half feels that it is being upheld. I would have preferred a simpler provision that would have enacted the language that we applied to Laos and Thailand last year, because I believe that goes to the heart of the intention of a majority of the Senate today with respect to Cambodia. I would have preferred that the Congress enact a simple provision as follows:

> In line with the expressed intention of the President, unless authorized by law hereafter enacted, no funds authorized or appropriated pursuant to this Act or any other law shall be used after July 1, 1970 to retain or introduce American ground combat troops in Cambodia.

However, we have the Cooper-Church amendment before us, and the least we can do is try to clarify what we in fact intend.

Mr. President, I reserve the remainder of my time.

The VICE PRESIDENT. Who yields time?

Mr. MANSFIELD. Mr. President, will the Senator yield me 2 minutes?

Mr. JACKSON. Mr. President, I yield 2 minutes to the distinguished majority leader.

The VICE PRESIDENT. The Senator from Montana is recognized.

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

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

Who yields time?

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

The VICE PRESIDENT. The Senator from Idaho is recognized.

Mr. CHURCH. Mr. President, the amendment offered by the distinguished Senator from Washington is clarifying in nature.

From the beginning, from the earliest drafts of the Cooper-Church amendment, we made it clear that our purpose was not to interfere with American air combat activity over Cambodia related to the interdiction of supply lines that feed into South Vietnam.

We wanted only to restrict air combat activity above Cambodia in support of Cambodian forces as distinguished from that in support of American forces or the needs of American personnel.

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

Mr. CHURCH. I yield.

Mr. FULBRIGHT. Mr. President, the press has reported that our planes have been flying in close support of Cambodian forces. This would not change that situation. In other words, this would still be prohibited. Is that not true?

Mr. CHURCH. That is my understanding. However, I would defer to the sponsor of the amendment for an answer.

Mr. JACKSON. Mr. President, will the Senator yield on my time?

Mr. CHURCH. I yield.

Mr. JACKSON. Mr. President, I do not intend to use any more time. Therefore, I yield on my time.

In response to the question posed by the able Chairman of the Committee on Foreign Relations, I would say that my amendment, in unequivocal terms, will prohibit direct air support by the American air force to the Cambodia forces.

This amendment is directed at ending, I hope, some of the potential differences between the President and Congress over whether or not there is a violation of this provision.

It could occur, for example, under the existing language, in several circumstances which I set out in my opening statement.

Any bombing of the sanctuaries would be prohibited, under the existing language, if those sanctuaries were used also to attack Cambodian forces.

My amendment makes very definite and certain the intent, which is to prohibit direct air support of Cambodian ground forces.

Mr. FULBRIGHT. Mr. President, I appreciate the statement of the Senator. I have in my hand—and I think it ought to be in the RECORD so that we will realize what we are talking about—an article entitled "Cambodia Expects U.S. Air Support," written by T. D. Allman, and published in the Washington Post of June 30, 1970.

It says:

> Speaking at his second general press conference since deposing Prince Sihanouk March 18, the Premier said, "The U.S. [Air Force] is supporting us in combat now."

The article continues:

> Lon Nol said he interpreted recent remarks by American Secretary of Defense Melvin R. Laird to mean that it would not stop.

This is direct air support. And the pending amendment means that we will not continue that. All of this, of course, would be subject to approval by Congress. If the President would come to Congress and specifically request direct air support, we may agree to do it. But what we are trying to prevent is action by the Executive without any approval by Congress.

Mr. President, I ask unanimous consent to have printed in the RECORD the article to which I referred.

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

CAMBODIA EXPECTS U.S. AIR SUPPORT

(By T. D. Allman)

PHNOM PENH, June 29.—The Cambodian premier, Gen. Lon Nol, indicated today that the U.S. Air Force would continue flying tactical support missions for his troops after the last U.S. ground forces have left Cambodia.

Speaking at his second general press conference since deposing Prince Sihanouk March 18, the premier said, "The U.S. (Air Force) is supporting us in combat now." He added that Cambodia, through official channels, had requested that the aid continue past June 30.

Lon Nol said he interpreted recent remarks by American Secretary of Defense Melvin R. Laird to mean that it would not stop.

Laird said Friday that American bombing raids in Cambodia after U.S. troops pulled out would have beneficial "side effects on the (Cambodian) troops on the ground." The day before, Secretary of State William P. Rogers said the use of American air power after the pullout "may have a dual benefit," aiding both "our purposes" and serving the Lon Nol regime.

Washington thus has edged away from its earlier assertions that only Communist supply lines in Cambodia would be attacked from the air.

(In a morning briefing at the western White House in San Clemente yesterday, presidential press secretary Ronald L. Zeigler said "the only U.S. activity in Cambodia will be air action for interdiction of enemy supplies and personnel." He then referred reporters to past statements by Rogers and Laird.)

EMBASSY AUTHORITY

The U.S. Embassy in Phnom Penh, according to well-informed sources here, already has the authority to designate and veto air strikes in Cambodia, although embassy sources say the right is not yet practiced regularly. Overflights by U.S. warplanes of Phnom Penh are now common. . . .

The premier also said that the Cambodian air force, composed of 12 Mig interceptors and also propeller craft, is capable now "of doing more and more". U.S. Air Force personnel during the last month have repaired and re-armed Cambodia's Mig squadron, are working on other Cambodian aircraft, including T-28 fighter bombers, and are in the process of installing sophisticated electronics guidance equipment at Phnom Penh's Pochentong airport.

Military observers here consider it likely

that the U.S. Air Force will play an increasingly important role in the fighting here as it does in neighboring Laos, where American bombers, helicopters and gunships are the Laotians' main source of supporting firepower.

NIXON LETTERS

The Cambodian premier, asked if he wished U.S. troops to remain in Cambodia past the withdrawal deadline, replied, "Naturally, yes."

He said he hoped U.S. troops would return to Cambodia in the event of a serious deterioration of his government's military position. However, the premier, confirming that he had exchanged personal letters with President Nixon, said he had not specifically requested that the President reconsider his withdrawal decision.

LACK OF ARMS

Throughout his press conference, Lon Nol emphasized his army's lack of arms and supplies. He said the U.S. government as yet had named no dollar figure for military aid during fiscal 1971, but added, "We were asked to state priorities. The priority is arms."

The premier three times said that Cambodia had "70 battalions of troops without arms." Responding to questions, he indicated that most the unarmed battalions were provincial units. He said, "There is no battalion in Cambodia that is sufficiently armed," but said the total of presently equipped battalions was 80. This would mean a standing Cambodian army, both armed and unarmed, of approximately 90,000 men, not including air and sea staff and support units.

ENEMY TROOP ESTIMATES

The premier said that the number of Vietnamese Communist troops in Cambodia since the American invasion had been reduced from 60,000 to 65,000 to "now only about 35,000 men."

The estimate, one of several widely varying figures here, differs from that given by American military sources, who estimated that originally there were only about 23,000 Communist troops in this country. According to the same sources, Vietnamese Communist troop strength in Cambodia has increased to about 50,000.

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

Mr. JACKSON. Mr. President, I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I would like to ask the Senator from Washington several questions for interpretation.

I would like to say that when the Senator from Idaho (Mr. CHURCH), the Senator from Montana (Mr. MANSFIELD), the Senator from Vermont (Mr. AIKEN), and I first prepared our amendment, we had written subsection (4) to prohibit any combat activity by U.S. forces above Cambodia except for the purpose of interdicting enemy supplies and men to be used against U.S. forces in South Vietnam.

We were writing language to protect U.S. forces from supplies and men outside Vietnam—the present subsection (3).

Our amendment does not and could not prohibit such protection. Subsection (4) of our amendment provides that the United States shall not engage in combat activity above Cambodia in support of Cambodian forces without the approval of the Congress.

Does the Senator from Washington understand our purpose?

Mr. JACKSON. I understand what the Senators intended.

Mr. COOPER. We agreed that the purpose of our subsection (3) is to prohibit combat activity over Cambodia by U.S. forces in support of Cambodia.

The Senator has moved to amend the amendment by inserting the word "direct" before the word "support." I am not questioning the Senator's statement. But I want to get the Senator's interpretation.

Are we leaving the doors open? Could the United States so use its Air Force above Cambodia, while not directly, but indirectly on doubtful missions, over Cambodia, for the purpose of supporting the Cambodian forces?

Mr. JACKSON. My amendment narrows the issue in language that I think is clearly unequivocal. I shall repeat what I said in my opening statement. My amendment makes unequivocal the prohibition on providing direct air support to Cambodian forces. I will read what I said in offering the amendment:

> I offer this one-word change, not with a view to making a substantive change in the Cooper-Church amendment, but, rather, to incorporate in the amendment itself what we take to be the principal objective of its sponsors—that we refrain from activity that could lead to getting bogged down in Cambodia. Direct air support to Cambodian forces might lead us down that path. Air activities, however, aimed primarily at the defense of our forces in Vietnam, and the forces of the South Vietnamese, would be consistent with my understanding of the intention of the Cooper-Church amendment.

What I am saying here is what I understood to be the intent of the sponsors. All I am trying to do is make the language definite and certain.

Mr. COOPER. As the Senator from Arkansas noted, it appears from the newspapers that the United States is providing air support for Cambodian forces.

Mr. JACKSON. Direct air support.

Mr. COOPER. At this moment I do not know whether this is correct or not. I simply wish to ask if the Senator's amendment would in any way approve in advance such activity?

Mr. JACKSON. My amendment would clearly and unequivocally prohibit it because the situation to which the Senator refers relates to support exclusively of Cambodian forces. The amendment would not prohibit support for non-Cambodian forces.

Mr. COOPER. I understand they may be closely merged.

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

Mr. JACKSON. I yield.

Mr. FULBRIGHT. There is one point the Senator raised I had not thought of and that is the business of the Ho Chi Minh Trail in protection of our own forces. To illustrate the point, let us assume the South Vietnamese become more and more excited over the prospect of taking Cambodia and pursue on their own an aggressive campaign throughout Cambodia. Will we, without congressional approval, give them close tactical air support if they begin to move all over Cambodia?

Mr. JACKSON. The present Cooper-Church amendment does not prohibit that. That is my understanding.

Mr. FULBRIGHT. I have one other point. If the South Vietnamese undertake to overrun and conquer Cambodia it does not prohibit our helping them, but if they do it in support of Cambodian forces, then it would.

Mr. JACKSON. Yes.

Mr. FULBRIGHT. Does the Senator agree that if the South Vietnamese are combining and working with the Cambodians, we should not give them close tactical support?

Mr. JACKSON. We cannot do what has been done in the past—providing direct support. I do not want to get bogged down in Cambodia.

Mr. FULBRIGHT. But we could get bogged down as satellites of the South Vietnamese.

Mr. JACKSON. We could get bogged, no matter what.

Mr. FULBRIGHT. And if we do, Congress should have a voice in the matter.

Mr. JACKSON. This amendment does help clarify what I understand is the situation.

Mr. FULBRIGHT. I agree up to that point. When the Senators mentions the South Vietnamese that is another question. If they are determined to stay there, as Mr. Ky says they are, are we going to give them close air support without the approval of Congress?

Mr. JACKSON. I hope they do not stay there.

Mr. FULBRIGHT. Now they are beginning to say they are going to stay. The Senator does not want us to stay with them, does he?

Mr. JACKSON. I do not want the South Vietnamese, the ARVN forces, to stay any longer than is necessary to protect their forces in withdrawing from Cambodia. I am not going to be a party to a further campaign in support of Cambodia.

Mr. FULBRIGHT. That is what I want to make clear.

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

The VICE PRESIDENT. All time of the Senator from Idaho has expired. The Senator from Washington has 10 minutes remaining.

Mr. JACKSON. I yield 3 minutes to the Senator from Kansas.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Washington.

Mr. President, I think it has been made clear in debate that they would have that right to make air strikes and keep the Vietnamization program on in Cambodia to protect American forces schedule. But who will make the decision as to whether it is direct? Is that decision to be made by the Senate or the generals? Who makes that determination?

Mr. JACKSON. This would have to be an executive decision by the President exercised through his chain of command. Congress runs into differences on the problem of the authority of the President as Commander in Chief and the responsibility of Congress to provide the funds to support the Armed Forces.

The point I am making is that there could be some very close cases where U.S. action might be construed as direct support of Cambodian forces and others where it would be protection of American forces.

This could result from many situations, especially on the battlefield. But at least we have a responsibility to try to make our position as clear as we can

and that is what I am trying to do. In the end it would, of course, be necessary for Congress, upon appropriate investigation, to decide whether they want to make another change.

Mr. DOLE. Mr. President, I support the amendment of the Senator from Washington. The legislative history also has helped because it has been made clear by the Senator from Idaho and others that the President has that right.

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

Mr. JACKSON. I yield 1 minute to the Senator from Wyoming.

Mr. McGEE. Mr. President, I join the Senator from Washington as cosponsor of this particular tightening up of the language. I think it may clarify it. But we should understand that part of the motivation is to make sure we do not unintentionally hobble the efforts of Asians if they can get a security effort going to protect their own interests. I think it tends to keep that option open so they can go in that direction without impeding the possibility of that happening.

This colloquy I have been listening to underscores what I think is of more overriding importance than the Cooper-Church amendment, and that is the important need for this body to address itself now to the future role of Congress in future crises. We have a tendency, if I may say so, in getting so bogged down in who did what to whom in the past that I can predict that one of these days soon we will have another crisis and go through the same motions and look for someone to "hang it" on. I think the time has long since passed for our spelling out with as much wisdom as we have at our command what we do when the crisis comes in Burma, India, or the Near East, wherever it may be.

I hope the Senate supports the amendment of the Senator from Washington.

Likewise, I join in urging members of the Committee on Foreign Relations, through the chairman, who is momentarily absent from the Chamber, to get on with the question of, where do we go from here and how should we proceed as the Senate in a crisis?

Mr. STENNIS. Mr. President, will the Senator yield to me for 1 minute?

Mr. JACKSON. I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I want to go on record in support of this amendment. I think it would be very important in the future. I associate myself with what the Senator from Wyoming has said. We never settle these matters, it seems, after personalities become involved in them, and that is particularly true with respect to collective action on the part of Asian nations.

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

Mr. JACKSON. I yield.

Mr. CHURCH. Mr. President, the Cooper-Church amendment is silent on the question of combat activity in the air above Cambodia except with respect to that activity which relates to support of Cambodia forces. It is this and this alone that is prohibited. The amendment offered by the Senator from Washington makes that clear, and is consistent with the position the sponsors of the amendment have taken throughout the debate.

For that reason, I do not think it is a substantive change; the Senator from Washington does not think it is a substantive change. We believe it is acceptable, a position I wanted the Senate to know.

Mr. JACKSON. I appreciate very much the explanation of my good friend from Idaho. I am very pleased that he will accept the amendment.

Mr. McGEE. Mr. President, I ask for the yeas and nays.

The VICE PRESIDENT. There is not a sufficient second.

The yeas and nays were not ordered.

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

The VICE PRESIDENT. 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 VICE PRESIDENT. Without objection, it is so ordered.

Mr. MANSFIELD. I ask for the yeas and nays.

The VICE PRESIDENT. There is a sufficient second.

The yeas and nays were ordered.

The VICE PRESIDENT. Do Senators yield back their time?

Mr. MANSFIELD. Mr. President, I yield back my time.

Mr. HART. Mr. President, before all time is yielded back, may I ask a question?

Mr. JACKSON. Mr. President, if I have any time left, I yield to the Senator from Michigan.

The VICE PRESIDENT. The Senator has 2 minutes remaining.

Mr. HART. The Senator from Washington wants to insure that the existing language does not bar air support for American troops. Is that right?

Mr. JACKSON. No. For non-Cambodian forces. The Senator from Idaho has accepted the amendment. It is an amendment of clarification.

Mr. HART. By inserting the language "in direct support of Cambodian forces," is the Senator authorizing air action that supports them indirectly?

Mr. JACKSON. No.

Mr. HART. Is the Senator sure? Very good.

Mr. JACKSON. It prohibits direct air support to Cambodian forces. It does not prohibit air support to non-Cambodian troops. This is the intent of the Church-Cooper amendment. We went through that here. The sponsors agreed to that.

The VICE PRESIDENT. All time on the amendment has expired.

The question is on agreeing to the amendment of the Senator from Washington (Mr. JACKSON). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL), are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting would vote "yea."

The result was announced—yeas 69, nays 27, as follows:

[No. 194 Leg.]

YEAS—69

Aiken	Ervin	Montoya
Allen	Fannin	Murphy
Allott	Fong	Packwood
Anderson	Fulbright	Pastore
Baker	Goldwater	Pearson
Bayh	Gravel	Pell
Bellmon	Griffin	Percy
Bennett	Gurney	Prouty
Bible	Hansen	Randolph
Boggs	Hartke	Scott
Burdick	Holland	Smith, Maine
Byrd, Va.	Hollings	Smith, Ill
Byrd, W. Va.	Hruska	Sparkman
Cannon	Jackson	Spong
Church	Jordan, N.C.	Stennis
Cook	Jordan, Idaho	Stevens
Cotton	Long	Symington
Cranston	Magnuson	Talmadge
Curtis	Mansfield	Thurmond
Dole	McClellan	Tower
Dominick	McGee	Tydings
Eastland	McIntyre	Williams, Del.
Ellender	Miller	Young, N. Dak.

NAYS—27

Brooke	Hughes	Moss
Case	Inouye	Muskie
Cooper	Javits	Proxmire
Eagleton	Kennedy	Ribicoff
Goodell	Mathias	Saxbe
Gore	McCarthy	Schweiker
Harris	McGovern	Williams, N.J.
Hart	Metcalf	Yarborough
Hatfield	Mondale	Young, Ohio

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

So Mr. JACKSON's amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States submitting a nomination was communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Vice President laid before the Senate a message from the President of the United States submitting the nomination of Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania, which was referred to the Committee on the Judiciary.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had passed, without amendment, the bill (S. 4012) to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days.

The message also announced that the House had passed the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, with an amendment, in which it re-

quested the concurrence of the Senate; that the House insisted upon its amendment to the bill and asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. PATMAN, Mr. BARRETT, Mrs. SULLIVAN, Mr. REUSS, Mr. WIDNALL, Mrs. DWYER, and Mr. JOHNSON of Pennsylvania were appointed managers on the part of the House at the conference.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 15733) to amend the Railroad Retirement Act of 1937 to provide a temporary 15-percent increase in annuities, to change for a temporary period the method of computing interest on investments of the railroad retirement accounts, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. STAGGERS, Mr. FRIEDEL, Mr. DINGELL, Mr. SPRINGER, and Mr. DEVINE were appointed managers on the part of the House at the conference.

The message also announced that the House had agreed to a concurrent resolution (H. Con. Res. 671) relating to the adjournment of the House on Wednesday, July 1, 1970, until 12 o'clock meridian, Monday, July 6, 1970, 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 Vice President:

H.R. 14118. An act to amend section 213 of the Immigration and Nationality Act, and for other purposes;

H.R. 14720. An act to continue until the close of June 30, 1973, the existing suspension of duties on manganese ore (including ferruginous ore) and related products, and for other purposes;

H.R. 15712. An act to amend the Public Works and Economic Development Act of 1965, to extend the authorizations for title I through IV through fiscal year 1971;

H.R. 17802. An act to increase the public debt limit set forth in section 21 of the Second Liberty Bond Act; and

H.J. Res. 546. Joint resolution authorizing the Secretary of the Interior to provide for the commemoration of the 100th anniversary of the establishment of Yellowstone National Park, and for other purposes.

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. DOLE. Mr. President, the Foreign Military Sales Act has been the focus of Senate attention for nearly 7 weeks. During this time, the act has undergone considerable change, and at this point many observers find it difficult to understand exactly what the act does or says. Several points, however, are clear.

The act is not now, contrary to early appearances, a repudiation of the President, nor does it attempt to relegate executive branch functions to the Congress. The act is a sound reaffirmation of the President's powers to perform his constitutional duties as Chief Executive of our Nation and Commander in Chief of the armed services. It is also a reasonable expression of congressional sentiment and a valid exercise of legislative authority.

A number of significant modifications have been made in the bill reported from the Foreign Relations Committee. A major focus of these alterations was the committee-adopted Cooper-Church amendment.

The amendment started as a statement which could have been interpreted as an attempt to curtail the prerogatives and authority of the President in the conduct of our foreign affairs and fulfillment of our military responsibilities. Many of the possible ramifications of the original version received detailed and thorough attention by the Members of this body. In the course of that consideration a majority came to feel that certain clarifications and expansions of the amendment were necessary.

PREAMBLE CHANGE

The first change, one which was agreed to unanimously, was made in the preamble of the amendment. The language was altered from an expression of unilateral, legislative initiative to a declaration of shared objectives with the executive.

MANSFIELD-DOLE

Following several rejections of proposed additions to the Cooper-Church amendment, the Mansfield-Dole amendment was adopted by unanimous vote. It emphasized that the Cooper-Church amendment should not be deemed to impugn the constitutional, Commander in Chief powers of the President.

BYRD

The next, and perhaps most significant, change was the second so-called protection of forces amendment offered by the Senator from West Virginia (Mr. BYRD). Its importance arises not only from its adoption and specific language but from its history, for a similar, but narrower amendment had been offered earlier. The first Byrd amendment dealt only with the President's powers to protect the troops under his command in South Vietnam; the second extended to "U.S. Armed Forces wherever deployed." The first Byrd amendment was narrowly defeated; the second was adopted by a vote of 79 to 5. The success of the second Byrd amendment evidences a fundamental reappraisal by nearly half the Senate of the impact which the Cooper-Church amendment might have had in its original, unelaborated form.

JAVITS

The last significant clarification of the Cooper-Church amendment was offered by the Senator from New York (Mr. JAVITS). It pointed out that nothing in the Cooper-Church amendment should be deemed to impugn the constitutional powers of the Congress. This was an important point to make, for, while many in this body were concerned that no action of Congress should cloud the President's powers and authority, there has been equal recognition of legitimate congressional responsibilities in the areas of foreign and military affairs. Certainly, no Senator wishes to weaken the Congress, and the Javits amendment clearly avoids any implication that the Cooper-Church amendment would do so.

TONKIN GULF

Another point repeatedly made in the debate on the Foreign Military Sales Act and the Cooper-Church amendment, when our overall role in Southeast Asia was considered, was that the 1964 Gulf of Tonkin Resolution was an unfortunate, unrelied upon and unnecessary statutory relic. It was seen to have been hastily and ill-considerately adopted; it was found to provide no basis for and to be inherently inconsistent with the present U.S. policy of disengagement and withdrawal; and it could not be seen to serve any worthwhile purpose now or in the future. With these considerations in mind the junior Senator from Kansas offered an amendment to repeal the Gulf of Tonkin resolution. It was adopted with a substantial majority.

SIGNFICANCE OF DEBATE

Debate on the Foreign Military Sales Act has extended through the greater part of 2 months, perhaps an unprecedented amount of consideration for a measure such as this. Some have labeled this debate a filibuster. I disagree. A filibuster in the history of the practice has been characterized by adamant, unyielding opposition to a matter before this body; rambling, irrelevant orations by proponents of one viewpoint; and little if any constructive debate of the substantive issues involved. The past seven weeks' record hardly illustrates inflexibility at any viewpoint or absence of compromise and resolution of differences. The Senators from Kentucky and Idaho have been most gracious in their willingness to discuss their amendment. The record of votes on the several amendments discloses numerous shifts in position by Senators on both sides of the principal lines of opinion. The debates and exchanges on the Senate floor provide countless examples of agreement, shared objectives and common understanding of the central issues.

Rather than being remembered as a filibuster, Mr. President, I submit that the past 7 weeks will be recognized as one of the greatest, most productive debates in the history of this body. Not only has a major legislative measure been hammered out and refined, but some of the most significant legislative history in recent decades has been created. It has been a rare occasion when so many Members of this body have given such prolonged and eloquent attention to a matter with the constitutional significance of the balance of the war powers between the legislative and executive branches of Government. This debate will stand as a valuable guide for the Congress, the President and constitutional scholars for years to come.

THE PRESIDENT'S ACTIONS

Headlines in this morning's papers carried a message which came as no surprise to this Senator nor to millions of Americans: "Last troops pulled out of Cambodia." It is now clear that President Nixon has met his commitments

and has kept his promise to end U.S. operations in Cambodia by the end of June. I had no doubt that the President would make good his word and that he could do so without the direction or oversight of the Congress.

SUMMARY

It is already July 1 in Southeast Asia, and U.S. Cambodian operations have been completed. The Cooper-Church amendment cannot now be construed as an attempt to second-guess the President's conduct of these operations; it now has appropriate prospective application and provides a valuable statement of strategic long-term policy for the United States in Southeast Asia. By clarifying the President's authority to protect the the forces he commands, the Byrd amendment forecloses any possibility that shadow would be cast on the President's powers in this critical area of his responsibilities. By underscoring the constitutional mandate of the Congress, the Javits amendment assures no diminution of the power role of this branch of Government. By repealing the Gulf of Tonkin resolution, the Dole amendment removes whatever chance there might be for further abuse of this ill-considered piece of our former policy in Indochina.

This 7-weeks' debate has been extremely valuable to Senate and public understanding of our goals and purposes in southeast Asia.

I believe all parties to the debate in the Senate have profited by it, just as the President has profited by demonstrating his credibility and reliability in pursuing the Cambodian operations successfully and according to the schedule which he announced.

Mr. MAGNUSON. Mr. President, the Senator from Alaska (Mr. STEVENS) and I, and the Senators from Oregon also, I suspect, and my colleague (Mr. JACKSON) will now submit an amendment which relates to an emergency matter, but we want it understood that there will be no discussion or vote on it until after the Cooper-Church amendment vote. But we want it to be considered, because we need to take action this afternoon.

Mr. CHURCH. Mr. President, I think nothing would be more suitable than for the majority leader to make the summation argument before we submit to a final vote on the Cooper-Church amendment.

Mr. MANSFIELD. Mr. President, I yield briefly to the Senator from Alaska (Mr. STEVENS) to submit his amendment.

Mr. STEVENS. Mr. President, I submit the amendment.

Mr. MANSFIELD. Mr. President, in view of a situation which has developed, so that there will be enough time on both sides, I ask unanimous consent that the vote on Cooper-Church amendment occur at 2:15, with the time to be equally divided between the majority and minority leaders, or whomever they designate.

The VICE PRESIDENT. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, it is said that the House of Representatives will not approve Cooper-Church should it pass the Senate. It is said that if Cooper-Church clears the Congress, in all probability, it will be vetoed by the President.

Whether these predicates are true in whole or part or not true at all remains to be seen. I hope they are not true. True or not, however, they do not and cannot detract one iota from this vote today.

The Senate cannot answer for the President. The Senate cannot answer for the House. The Senate can speak only for the Senate. In the vote on Cooper-Church, today, Senators will most assuredly do so, as individuals and collectively. What is said will be most significant, in my judgment, to the future of this Nation.

Cooper-Church is a response to a pattern of Executive actions in Southeast Asia which has been evolving for years and which has now raised constitutional questions regarding the responsibilities of the Senate in the gravest questions which confront the Nation—the questions for war and peace. It is a pattern whereby the Congress was first invited to join with the executive branch, as in the Tonkin Gulf resolution, in delineating a policy, presumably for peace in Vietnam. Therefore, the Congress discovered it had joined in a strategy which led to war. The Congress was carried along into the ever-deepening military involvement in Vietnam.

At first, it was maintained that we had endorsed this course by passing the Tonkin Gulf resolution. Then, several years ago, the executive branch decreed that Congress had not really been needed to legitimize the course. With or without Congress, it was contended, the executive branch could pursue whatever military measures were appropriate under the unilateral powers of the Presidency.

So, the grip of death and destruction which is Vietnam was fixed ever more tightly not only on Southeast Asia but on the neck of this Nation. All the while, Congress has been progressively excluded, even from consultation, on the decisions which have sustained this tragic involvement year after year after year.

A few weeks ago, the matter was brought to a head by the investiture of Cambodian border areas with a massive U.S. military incursion. The executive branch, unilaterally, decreed this advance of our forces across an international border. The executive branch, unilaterally, decreed that Cambodia should be added to the Vietnamese theater of war. Congress was not privy to the decisions which led to this expansion. The Senate leadership was not consulted in either party. The committees of the Senate were not consulted. The advice of the Senate was not sought. The consent of the Senate was not requested, nor was it given.

According to those responsible, the military operation in Cambodia has been a great "success" and U.S. forces have now been withdrawn. May I say that, notwithstanding my view of the initial action, the President is to be commended for insisting that the withdrawal be completed by his military commanders by June 30. That decision, at least, has had some limiting effect on what was undertaken.

We are advised that great quantities of war material have been seized in this successful operation in Cambodia. Great destruction has been visited on hostile military bases. Thousands of hostile Vietnamese are reported killed.

These reports, I am sure, are carefully compiled by the computers. They are, undoubtedly, some sort of a measure of "military success." What they do not measure is what the success will yield in the end. The fact is that the road into the quagmire of U.S. involvement in Indochina has been lit with the fires of an endless succession of military successes. These other successes—5 years of successes—I am sure, were all accurately computed and reported in their turn, but the war goes on—deeper and deeper into Southeast Asia.

Nevertheless, we may take the assurances of those responsible that Cambodia was a great military success, the greatest of the war. We may take these assurances notwithstanding the fact 339 Americans died in Cambodia and 1,501 were wounded. We may take them even though great segments of Cambodia which were once free of Vietcong and North Vietnamese are now serving as bases of operations for these forces. We may take these assurances, even though this newest success has led to a new U.S. aid commitment at an initial cost of millions in equipment and supplies and, apparently, a commitment of U.S. air support and bombing runs in Cambodia; all this new expenditure of lives and resources will take place in Cambodia, in an area where 4 months ago this Nation spent no resources on aid and its forces were not engaged. Nevertheless, we may take the assurances of the success of this adventure. We may take them even though it must be asked, who will now pay to maintain the new government in Cambodia? Who will see to its survival? Even though it must be asked how much beyond the points of its bayonets does the influence of this government extend among its own people?

We may take these assurances if, for no other reason, than that there is no relevance in a military postmortem at this time. The degree of success of the Cambodian operation is not involved here today. How can it be involved when the necessity for Cooper-Church was conceived before the beginning of the operation in Cambodia? What is involved here is whether the Senate wants to try to inhibit new involvements of this Nation abroad, without prior consultation with the Senate and without sanction from Congress—in Cambodia or elsewhere in Southeast Asia or the world.

Cooper-Church works with the President's present intent, not against it in Cambodia. Cooper-Church is a congressional lock on the door which the President is trying to close behind the exit of the last American serviceman from Cambodia. Cooper-Church is a lock to prevent the casual or careless opening of other doors elsewhere by unilateral actions of the executive branch doors beyond which lie national commitments involving American lives and resources.

Even if the lock of Cooper-Church is passed by the Senate, its strength remains to be tested. Even now, some make

light of it. Some ridicule it. Insofar as I am concerned, it is no laughing matter; it is a most serious matter. Americans have gone to their deaths, over 50,000, through the open doors of Vietnam, Laos, and now Cambodia. More than a hundred billion dollars of U.S. resources have poured through these open doors.

Reject Cooper-Church and, in my judgment, the Senate will have acquiesced in an indefinite continuance of the involvement in Southeast Asia and in a relentless accretion in U.S. casualties and costs in Indochina. That is, I know, not wanted by the President. Nor is it wanted by any Member of the Senate. But that is what we are going to get. That is what the people of this Nation, in my judgment, are going to get. The end of this involvement will remain, as it is now, nowhere in sight.

Reject Cooper-Church and, I say in all soberness, it would be wise for the Senate to anticipate other Cambodias and other Vietnams, elsewhere in the world. They may be expected under any kind of administration.

Cooper-Church is not a guarantee of noninvolvement in Cambodia or anywhere else. It is an attempt; it is not a certainty. However, if it passes, we will have made clear, at least, that the Senate is prepared to try to act with the President to forestall other Vietnams which the President—any President—may be under pressure to undertake.

If it passes, we will make clear, at least, the Senate's resistance henceforth to the pattern of enlarging involvement in Southeast Asia. We will make the Senate's position clear, irrespective of party considerations here and irrespective of the views of the House or the President. I say that most respectfully because, as do we, they have their own responsibilities in this matter and may see them differently.

To be sure, it is devoutly to be hoped that the House will concur in Cooper-Church and that the President will sign the bill of which it is a part. Indeed, in my judgment, the greater the cooperation among the three elected parts of this Government, in this connection, the greater the chance of finally extricating this Nation from this hydra-headed war in Southeast Asia.

In my judgment, therefore, it is of the greatest significance that Cooper-Church is not designed to conflict—and it is not—with the President's constitutional powers as Commander in Chief. Rather, it is designed to permit the constitutional powers of both Congress and the President to be meshed in a common effort to extricate the Nation from the misbegotten situation in Southeast Asia. By passing Cooper-Church, in my judgment, the Senate will have begun to move this Government, beyond words, toward the end of the U.S. involvement in a tragic and mistaken war, toward the restoration of this Nation's tranquility and well-being.

Mr. GOLDWATER. Mr. President, will the Senator from Kansas yield me 2 minutes?

Mr. DOLE. I yield 2 minutes to the Senator from Arizona.

The VICE PRESIDENT. The Senator from Arizona is recognized for 2 minutes.

Mr. GOLDWATER. Mr. President, I rise to explain why I shall vote against the Cooper-Church amendment. I think that for 7 weeks we have been following a will-o'-the-wisp. We have been leading the people of the country to believe that the Cooper-Church amendment will change the military responsibilities of Congress and limit the powers of the President as Commander in Chief.

Mr. President, this is not so. This can only be accomplished by a constitutional amendment. I have suggested time and time again on this floor that I think we can explore the possibilities of an amendment to articles I and II; one, more adequately to describe the exact powers of Congress in the military field and, two, if we want to, limit the powers of the President as Commander in Chief.

I have seen nothing in the Court records to change the language of Swaim against the United States, which was upheld by the Supreme Court in 1897.

I should like to read it:

In *Swaim* v. *U.S.*, the Court of Claims said:

Congress may increase the Army, or reduce the Army, or abolish it altogether; but so long as we have a military force Congress cannot take away from the President the supreme command. It is true that the Constitution has conferred upon Congress the exclusive power "to make rules for the government and regulation of the land and naval forces"; but the two powers are distinct; . . . Congress cannot in the disguise of "rules for the government" of the Army impair the authority of the President as Commander in Chief.

Mr. President, I intend to vote against the Cooper-Church amendment because I do not think it will accomplish what the sponsors think it will.

It will not accomplish what the people of this country have been told it will accomplish.

I do not want to hoodwink the people of this country.

Mr. DOLE. Mr. President, I yield 2 minutes to the distinguished Senator from Maryland (Mr. MATHIAS).

The VICE PRESIDENT. The Senator from Maryland is recognized for 2 minutes.

Mr. MATHIAS. Mr. President, the distinguished Senator from Arizona (Mr. GOLDWATER) has expressed a concern which is widely felt. I think that the exact way in which the Cooper-Church amendment will operate is a question which has occupied the attention not only of the Senate but also a very large part of the public throughout the country.

An article was published in the Washington Post on June 19 last, written by Murrey Marder, in which one of the authors of the Cooper-Church amendment, the distinguished Senator from Idaho (Mr. CHURCH), was quoted as saying that while the amendment would prevent the hiring of troops:

It does not prevent us from arming or equipping or supplying a Thai or Lao force sent into Cambodia, but it would prevent us from hiring them to fight . . . All the Thais would be required to do is to pay the forces.

Mr. President, I wonder whether the distinguished Senator from Idaho would tell us whether that is an accurate reflection of his views.

Mr. CHURCH. Yes. Let me say to the Senator from Maryland that that quotation is accurate. The amendment offered by the Senator from Kentucky (Mr. COOPER) and myself does not address itself to the extension of military weapons or equipment to governments in Southeast Asia. The prohibitions are very precise. The prohibition contained in subsection C of the amendment is against the hiring of foreign troops to fight in Cambodia for Cambodia; but the amendment is silent on the question of sending military equipment. As the Senator knows, this has already been done. Considerable equipment has already been shipped by the Government of the United States to the Lon Nol regime in Cambodia. The amendment does not attempt to bar further deliveries of equipment to the Cambodian Government, if that should become the policy.

Mr. MATHIAS. I thank the Senator for his response. It seems to me that the amendment is reasonable and a constitutional limitation, and it is one which I shall support.

Mr. President, I ask unanimous consent to have printed in the RECORD in its entirety the article to which I have referred.

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

[From the Washington Post, June 19, 1970]

U.S., BANGKOK BARGAIN ON THAI AID TO CAMBODIA

(By Murrey Marder)

The United States and Thailand are bargaining behind the scenes over the costs of sending Thai troops into Cambodia when American forces withdraw, State Department officials acknowledged yesterday.

There is "no decision" so far about what "associate or concurrence" the United States may provide in regard to "various proposals for Thai aid to Cambodia," said State Department press officer Carl E. Bartch.

One critical unstated reason why a decision is still hanging while Communist military action is intensifying in Cambodia is the Nixon administration's uncertainty about what will happen on the Senate floor, other official sources conceded.

Senate "doves" are determinedly holding to their opposition to U.S. payments for any "mercenaries" or "hired guns" in Cambodia, Senator Frank Church (D-Idaho) emphasized yesterday. The explicit ban on mercenary pay is wrapped into the pending amendment to limit U.S. military involvement in Cambodia.

Behind the scenes, the argument is sometimes called the "Hessian" issue, a term borrowed from the British use of Hessian mercenaries in the American revolution—a parallel which administration officials resent and deplore.

From Bangkok yesterday, it was reported that Thailand is considering shifting portions of its 11,000-man Thai Black Panther division from South Vietnam to Cambodia. The United States has no information to confirm plans for such a shift, said Bartch.

"It is up to the Thais to decide whether to send their troops into Cambodia or not," said Bartch, but "We would not want to see anything develop that could weaken the Vietnamization effort in South Vietnam by any precipitate allied troop switches.

Despite reports from Cambodia yesterday of increasing concern there about road-cutting and encirclement of the capital of Phnom Penh by North Vietnamese and Vietcong troops, officials at the White House and State Department registered no mood of acute alarm.

DIVERSION SEEN

U.S. officials said they do not believe the Communist forces are now preparing an assault on Phnom Penh, or have the strength to do so. Instead, administration officials regard the Communist action more as limited harrassment and diversion to try to undermine the government psychologically than as a move to overthrow it militarily.

Thai Prime Minister Thanom Kittiachorn announced on June 1 that his nation was prepared to send "volunteers" to Cambodia who will be "armed and equipped from aid supplied by the United States."

That announcement collided with greatly heightened Senate opposition to U.S. financing of allied troops in the Indochina war.

On June 7, a Senate Foreign Relations subcommittee disclosed that under a secret agreement the United States since 1967 had been paying Thailand $50 million a year for keeping its combat division in South Vietnam, plus other military benefits for Thailand.

As one consequence of this deal and alarm over "more Vietnams," the pending Church-Cooper amendment to the Foreign Military Sales Act bars any funds "to provide persons to engage in any combat activity in support of Cambodian forces . . ."

Administration officials contend that this provision would frustrate the objectives of the Nixon Doctrine which is intended to supply U.S. assistance to encourage Asians to fight Asian wars. A proposed administration-favored amendment by Sen. Robert P. Griffin (R-Mich.), the assistant Senate Republican leader, would modify the Church-Cooper amendment to permit funds to be paid to support non-American forces who come to Cambodia's aid.

Senate sources said Griffin is holding off pressing his amendment until he is assured of enough votes to challenge the Church-Cooper alinement.

Church said yesterday that "increasingly it's becoming clear that the Nixon Doctrine is a policy of Hessians Unlimited. The Nixon administration is interested in 'hired guns.'"

The Church-Cooper amendment gives the administration "a good bit of leeway" to provide "reasonable aid" to allies, said Church.

PIE ON GRAVY TRAIN

"It does not prevent us from arming or equipping or supplying a Thai or Lao force sent into Cambodia," said Church, "but it would prevent us from hiring them to fight . . . All the Thais would be required to do is to pay the forces . . . Otherwise, this thing becomes a gravy train for every government out there which just waits for its slice of pie."

Church acknowledged, however, that, even if the Church-Cooper amendment passes, there are roundabout ways the administration might devise to reimburse Thailand for troop costs in Cambodia. He said "our involvement is so immense, and our bureaucracy is so Byzantine, that there are ways to get around the law if they are determined to do so."

What is important, said Church, is to establish the principle that the United States should not operate abroad on a "hired guns" basis.

Administration sources countered that such terminology is "unfair and unwarranted." The same "vitriolic" tag could have been tied, these sources said, to U.S. financial support to allies in World War II or in the Korean war or to NATO allies in earlier years. Other complex factors besides financial support are involved in the current discussions over possible use of Thai troops in Cambodia, these sources said. But they acknowledged that the Church-Cooper bloc of votes is the largest barrier the administration is now facing in planning its future strategy concerning Cambodia.

Mr. DOLE. Mr. President, how much time do I have remaining?

The VICE PRESIDENT. The Senator from Kansas has 8½ minutes remaining, and the majority leader has 2½ minutes.

Mr. DOLE. I thank the Chair.

Mr. President, I now yield 2 minutes to the Senator from Wyoming.

The VICE PRESIDENT. The Senator from Wyoming is recognized for 2 minutes

Mr. HANSEN. Mr. President——

Mr. McGEE. Mr. President——

[Laughter.]

Mr. McGEE. Wyoming has two Senators.

Mr. President, I want to say at this late hour that I still think we are missing the point, that the many weeks we have spent on this amendment should be addressed to the real problem before the Senate: How do we update the role of the Senate in the latter half of the 20th century to exercise its responsibility in foreign policy in a nuclear age?

In a day when some people think we can only afford a limited war if we have to test strategic areas, where else can we find the answer to that but by a searching inquiry now?

We have a penchant in this country for looking backward. We spent 30 years trying to avoid World War I after it was over. We spent over 20 years after the fact trying to avoid World War II. Now we are trying to find out who is to blame for Vietnam.

I believe that we should be worrying about what we should be and can be doing in a Burma crisis, an Indian crisis, or a Near East crisis. I would therefore hope that the Committee on Foreign Relations, on which I serve, will turn its energies, resources, and good judgment into a searching exploration of a modern role for the Senate, in concert with the President of the United States, in projecting future crisis decisions in the field of foreign policy.

Mr. DOLE. Mr. President, I yield 1 minute to the senior Senator from Wyoming.

The VICE PRESIDENT. The Senator from Wyoming is recognized for 1 minute.

Mr. HANSEN. Mr. President, may I say that the senior Senator from Wyoming has just been heard from. The junior Senator from Wyoming would appreciate the opportunity to say just a word or two now. [Laughter.]

Mr. President, it is not my intention to attempt to point up all the arguments that have been made in the past 6 weeks regarding the merit or lack of merit of the Cooper-Church amendment to the Foreign Military Sales Act, as it relates to the conduct of the war in Southeast Asia by the President.

I have listened carefully to all facets of the debate since May 14, and I have come to the following conclusions:

First. World War I and II taught one hard truth: Either we maintain an active role in helping keep the peace or we will be forced to fight big wars.

Second. We must, in our own interest, be prepared to exert a continuing influence if we are to maintain a viable role in world affairs; and it is important in our national interest to maintain that ongoing influence.

Third. To pull out of the war in Southeast Asia or any other place that, in the considered judgment of our President, our country's long-range interest calls for our involvement—even militarily—would be to abdicate our responsibilities as a great Nation and as a force for justice and liberty.

With those basic principles in mind, let me say that I find myself in complete agreement with the distinguished Senator from Arkansas (Mr. McCLELLAN), when he said:

> I simply think that the President of our country deserves better treatment and greater respect than to have inflicted upon him the public rebuke and implications that I think are clearly implicit in this amendment. The implication that it is premised in large measure on distrust and conveys a lack of confidence in the President of the United States as our commander-in-chief, I think, is inescapable and irrefutable.

I, for one, am not prepared to vote to do that.

Mr. President, today's headlines are that the last of the U.S. combat troops committed to removing the enemy from its border sanctuaries have been withdrawn from Cambodia.

None can deny that the Cambodian operation has been a tremendous success. None can deny that our President, Richard Nixon, keeps his word.

The President promised that American forces would be withdrawn by June 30, and he accomplished that. In my opinion, it was unfortunate that such pressures were brought upon the President that he was compelled to announce publicly a deadline for withdrawal of American troops.

In announcing the withdrawal time to the Congress and to the public, it was necessary that the enemy also be informed of the deadline for American withdrawal. With this knowledge of a deadline, and of a 21-mile limit inside Cambodia, the enemy was enabled to withdraw beyond the mileage limit and bide its time—avoiding a confrontation with allied forces—until the June 30 deadline. I don't believe anyone can determine at this time whether the enemy will now attempt to move back full force into the former sanctuaries.

There is reason to believe that passage of the amendment could encourage the enemy to return to the sanctuaries, or attempt a return, believing that American troops would not be able to strike at him in his lair without the forewarning of an extended debate in the Senate.

Mr. Nixon, in making the Cambodian decision, did what had to be done to protect American troops in their continued withdrawal from Vietnam. The decision was based upon sound advice, and upon the best judgment of the military, whose operations have been ham-

pered for years by the ability of the enemy to strike at American units and villages of South Vietnam—and return to a free base.

The success of the operation was due, in part, to the element of surprise the President was able to attain in ordering American troops against the sanctuaries without lengthy warning to the enemy. U.S. forces were able to seize and maintain the initiative—an initiative that heretofore had been locked in the hands of the enemy. The element of surprise certainly would have been lost had the President been compelled to seek the permission of Congress to raid the sanctuaries in Cambodia. There would have been deliberations and there would have been debate—likely, extended debate. The enemy could have meanwhile withdrawn deeper into the jungle—taking with him the vast storehouses of his arsenal that have been captured in the Cambodian operation. Yet, because this was unnecessary, the Cambodian operation was a signal success—the biggest success of the long years of the war.

Vice President AGNEW, on June 20, gave it this description:

The operation ordered by the President of the United States and carried out by your brave sons in this short period is the greatest military victory of the United States since MacArthur landed the Marines at Inchon—and in spite of the screams of anguish from the usual capitulators, apologies are not in order.

Mr. President, in my view, if Congress has strong feelings about what American policies should be, we should try to contemplate them prospectively, rather than dealing with them after the fact. Land and sea and air forces of the United States were committed to Indochina long and bloody years before President Nixon was inaugurated. He has made, and is continuing to make, with marked success, efforts to withdraw our men from combat on that continent. It would be strange policy indeed to tie the hands of the Commander in Chief in time of national crisis, when all available means must be used to carry out a successful withdrawal—a withdrawal designed to leave the free people of Asia a chance to survive.

Mr. President, although many of us do not believe this amendment would be accepted by the House of Representatives, even should it be accepted by the Senate, and millions of citizens have considered the debate on the matter pointless, we must consider how the enemy would view Senate passage of this amendment.

Let us look briefly at a report in English of an article from the Hanoi daily Nhan Dan, which I ask unanimous consent to have printed in the RECORD at conclusion of my remarks.

The VICE PRESIDENT. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HANSEN. Mr. President, the article, on June 14, stated:

The Cooper-Church amendment submitted to the Senate shows to what extent the distrust in the U.S. President has reached right in the highest legislative organ of the United States. By virtue of the Cooper-Church amendment, all the expenditures for U.S. troops in Cambodia including funds reserved for U.S. military advisors commanding Saigon puppet troops and other mercenaries there will be cut.

The fact that the Cooper-Church amendment, put forth just after Nixon had solemnly promised to the whole nation to withdraw all U.S. troops from Cambodia before July 1, also proved how slightly the great majority of the Senators including many "hawks" and public opinion in the United States treat Nixon and his promises.

Mr. President, just the fact that the amendment was introduced led the enemy press to state that "the great majority of Senators" believed the President would not keep his word. President Nixon has of course kept his word, and only a very few, if any, Senators ever doubted that his word would be kept.

Further, in commenting on the defeat of an amendment offered by the distinguished Senator from West Virginia (Mr. BYRD), the article said:

The recent Senate vote against Nixon was essentially a non-confidence vote which, in any other country in Western Europe, would have forced the head of government to resign.

This certainly is indicative of how little of what we do here is understood by the enemy. It reflects a complete lack of understanding of how our Government operates. These misjudgments and ignorance on the part of the enemy would be amusing if they dealt with less serious areas. But there is nothing amusing about an enemy, sworn to aggression, that is grossly mistaken about the resolve of the United States. To make it clear to the enemy that the U.S. Senate does support the actions of American troops committed to battle, and the President of the United States, I strongly urge defeat of the amendment.

EXHIBIT 1

FAILURE OF BYRD AMENDMENT SEEN AS DEFEAT FOR NIXON

HANOI, VIETMAN, June 14—The Hanoi daily Nhan Dan titled "A Major Defeat for Nixon at the U.S. Senate" its commentary today on the U.S. Senate vote of June 11 rejecting the amendment by Sen. Robert Byrd, Democrat-West Virginia, to authorize the President to commit U.S. troops to Cambodia after June 30 Nhan Dan quoted AFP and AP as saying that this was seen by observers as a "major defeat for the Nixon administration," a "key victory" of the "Senate's anti-war bloc."

The paper pointed out that the "credibility gap" which had developed sharply under the Johnson administration has been greatly aggravated since the United States recklessly committed armed aggression against Cambodia and expanded the war to the whole Indochina. The Cooper-Church amendment submitted to the Senate shows to what extent the distrust in the U.S. President has reached right in the highest legislation organ of the United States. By virtue of the Cooper-Church amendment, all the expenditures for U.S. troops in Cambodia including funds reserved for U.S. military advisors commanding Saigon puppet troops and other mercenaries there will be cut.

The paper went on: "The fact that the Cooper-Church amendment, put forth just after Nixon had solemnly promised to the whole nation to withdraw all U.S. troops from Cambodia before July 1, also proved how slightly the great majority of the Senators including many 'hawks' and public opinion in the United States treat Nixon and his promises."

After recalling the failures of Nixon's moves to oppose the Cooper-Church amendment such as sending "fact finding missions" to Indochina in an attempt to fool the American Congress and people with imaginary military victories and wirepulling his yes-men to submit "counteramendments" to alter the amendment sponsored by Cooper and Church, the paper said: The rejection of the Nixon-backed Byrd amendment on June 11 constituted another blow to the already waning power of Nixon in the eyes of the American people and the U.S. Congress.

Nixon is facing mounting opposition from the American people and Congress and even within his administration. Contradictions have been such that the Senate had used its constitutional powers to stop the President's actions. While the latter resorts to every imaginable trick to oppose the Senate, as Western opinion has rightly remarked, the recent Senate vote against Nixon was essentially a non-confidence vote which, in any other country in Western Europe, would have forced the head of government to resign.

It has also been reported that Nixon is preparing to send another "fact-finding mission" to Indochina purposely [as received] to cook up a report that would completely fit it to his desire. His yes-men have already made ready half a dozen "counter-amendments" to be submitted to the Senate.

All these maneuvers, however, can never fill the "credibility gap" that is widening between the Nixon administration and the American people.

Nhan Dan went on: "As for the Indochinese peoples, from the 'constitutional crisis' which is taking place in the United States, they have drawn these two conclusions: First, Nixon still clings to his plan to carry on the armed invasion against Cambodia and expand the war to the whole Indochina, even with U.S. infantry. Secondly, the more obdurately they pursue the war of aggression, the more critical the situation in Indochina and right in the United States will become and they are sure to land in incalculable difficulties."

The balance of forces is obviously in favour of the Indochinese peoples, both militarily and politically.

"We will fight till complete victory," the paper stressed in conclusion.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from South Carolina.

The VICE PRESIDENT. The Senator from South Carolina is recognized for 1 minute.

Mr. THURMOND. Mr. President, I rise in opposition to the Cooper-Church amendment.

Passage of the Cooper-Church Amendment today by the U.S. Senate would be a blow to the struggle of free men in Cambodia who are being murdered daily by Communist forces from North Vietnam. Its effect could bring down the new government of Cambodia. This would be followed by the positioning of Communist forces along the borders of South Vietnam and Thailand which adjoin Cambodia. While many Americans feel this amendment would merely prevent the further introduction of U.S. troops into Cambodia it goes much further in that it also prohibits U.S. help to any other country in Asia which is willing to come to the aid of Cambodia. Thus the Senate would be waving the white flag of surrender over Cambodia under the

cloak of reassuming the warmaking powers of the Congress. While it is my belief the House of Representatives will never accept this amendment, the psychological effect will be a repudiation of the Nixon doctrine which called upon our Asian allies to stand together in their own defense: I favor giving arms and other necessary aid to those Asian countries under attack by Communist forces as the surest means of permitting the reduction of U.S. military personnel in this area. At the same time such a policy would enable the soldiers of Asia to possess the means to successfully defend their own soil from Communist attacks. The passage of this amendment will also shake our allies in Asia and likely weaken their resolve to stand up to Communist forces. In this respect it is dangerous and could possibly be disastrous. The Senate would in effect be casting Cambodia into the jaws of Communist expansion and, if engulfed, South Vietnam and Thailand could follow.

Mr. MANSFIELD. Mr. President, I yield 2 minutes to the Senator from West Virginia.

The VICE PRESIDENT. The Senator from West Virginia is recognized for 2 minutes.

Mr. BYRD of West Virginia. Mr. President, previously, I expressed my opposition to the Cooper-Church amendment because I felt that the first paragraph would convey a message to the extent that the President of the United States was not to be allowed to exercise his powers under the Constitution as Commander in Chief in order to protect American forces stationed in South Vietnam.

I also expressed at that time my support of paragraphs 2, 3, and 4 of the Cooper-Church language believing, as I did, and as I do now, that they are calculated to prevent our entering into a new commitment or getting involved in a new war.

Mr. President, with the acceptance of the Mansfield amendment, together with acceptance of the Byrd-Griffin amendment, I believe it has now been made clear that the President, acting as Commander in Chief under the Constiution, not only possesses the constitutional power to protect the lives of American forces wherever deployed, which includes South Vietnam, but also that he may exercise that power in an emergency situation to protect those troops without being forced, if it is impracticable to do so, to consult the Congress first.

Accordingly, I believe, now that this weakness, has been cured, I can and will support the Church-Cooper language as amended. I would urge Senators to do likewise.

Mr. President, I have also previously indicated my belief that if the Church-Cooper language as originally written were passed by the Senate, the House would not accept it.

I trust, now that the language has been amended as originally described, that the House will accept this language.

The VICE PRESIDENT. The time of the Senator has expired.

Mr. MANSFIELD. Mr. President, I yield 1 minute to the Senator from West Virginia.

The VICE PRESIDENT. The Senator from West Virginia is recognized for 1 additional minute.

Mr. BYRD of West Virginia. Mr. President, I believe that the Senate has performed a service to the country by this extended debate, because it clearly indicates that Congress intends to share the war powers under the Constitution while at the same time we recognize the powers of the President as Commander in Chief. In summation, we convey a clear message to our own people, our own troops, and the enemy that our troops will be protected, but that the prior approval of Congress will be necessary before our Nation can be committed to any new land war in Southeast Asia—thus avoiding our becoming bogged down in new Vietnams.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Alaska.

The VICE PRESIDENT. The Senator from Alaska is recognized for 1 minute.

Mr. STEVENS. Mr. President, at the beginning of the debate, I had an exchange with the senior Senator from Missouri (Mr. SYMINGTON) in which I asked that this measure be delayed until the President had had an opportunity to keep his commitments to the country. I think that President Nixon has kept his commitments.

This is not an attempt to limit President Nixon's authority over our ground troops. Secretary Rogers has said our combat ground troops will not move back to Cambodia.

This is the first step toward reasserting the role of the Senate as an equal partner in foreign affairs.

I shall vote for the amendment.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Mississippi.

The VICE PRESIDENT. The Senator from Mississippi is recognized for 1 minute.

Mr. STENNIS. Mr. President, the pending amendment has been greatly watered down. The main clause remaining in the amendment pertains to retaining U.S. forces in Cambodia. The American forces are already out of Cambodia. So, that section goes out—at least it has no meaning now.

However, there remains one message in the amendment. That is the message to our enemies, our adversaries in war; that message is the President is restricted. I feel, and I know, that this message will go home to them.

I believe the day will come when we will know positively that this amendment imperils the success of the withdrawal of our forces.

I am strongly opposed to it on that ground as well as on the ground that it is an attempt to restrict the President after the battlelines have already been drawn and the war has been going on for years.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Pennsylvania.

The VICE PRESIDENT. The Senator from Pennsylvania is recognized for 1 minute.

Mr. SCOTT. Mr. President, the Senator from Michigan (Mr. GRIFFIN) and I both had the opinion last night that if we were able to have the Griffin amendment adopted, it would be acceptable to us and we would vote for the Cooper-Church amendment as thus amended.

I regard the 7 weeks that have been spent here as having been largely a wasted effort. I regret it very much, because we were unable to persuade Senators of the importance of not impinging on the essential powers of the President.

I could not under those circumstances support the amendment.

We have tried very hard for an accommodation, and everyone has participated in the effort.

I think it will be necessary now to vote against the Cooper-Church amendment in view of the fact that, as the Senator from Wyoming (Mr. MCGEE) so well pointed out, we ought to be considering ways by which we can work in accord with the President instead of sending him flaming messages asserting of our conceived prerogatives.

Mr. President, we have better work to do. We should work with the President and find means by which to do it.

The Senate is entitled to be heard and should be heard, but within the framework of its responsibilities.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from California.

The VICE PRESIDENT. The Senator from California is recognized for 1 minute.

Mr. MURPHY. Mr. President, I shall not delay the Senate. I have listened carefully to the debate. The purpose is clear. However, the purpose is no longer necessary because all the American forces are now out of Cambodia. I see nothing productive to be accomplished by agreeing to the amendment.

I would find it particularly difficult to explain the action of the Senate to any of our troops that are now in Southeast Asia.

Mr. President, I shall oppose the amendment.

Mr. JACKSON. Mr. President, I am pleased that the exhaustive, if not exhausting, record of debate on the Cooper-Church amendment has clarified its meaning and intent to a substantial degree. In particular, I am pleased that my amendment to section 4 received such substantial support for I believe that it has the effect of sharpening the nature of the prohibition on the use of U.S. airpower in Cambodia. It serves to embody the intent of a majority of the Senate, with which I am in complete accord, which is to prevent us from getting bogged down in Cambodia, while enabling us to defend American and allied troops in Southeast Asia.

I should have preferred further clarification of the precise wording of section 3 as well. Nevertheless, I believe that discussion on the floor, especially remarks by Senators COOPER and CHURCH, has served to focus the point of the prohibition on the raising of mercenary forces. It is meant to prohibit, as many Senators pointed out, the recruitment of highly paid mercenary forces, while allowing U.S. aid to countries in Southeast

Asia who wish to field troops of their own to provide for collective regional defense. This distinction is of profound importance. It would have been better had it been contained within the amendment itself, but I trust that the legislative history with respect to this distinction will inform the Senate-House conferees as they consider the Cooper-Church amendment.

The heart of the Cooper-Church amendment, as I understand it, is the primary clause, section 1. I am hopeful that all Members of the Senate will, in coming months, refrain from going beyond the intent of the other sections, as manifested in amendments and the legislative history, in order to calm the rhetoric that has proved so divisive and so inimical to prudent policymaking.

I shall vote in favor of the Cooper-Church amendment.

Mr. DOLE. Mr. President, I yield 1 minute to the Senator from Texas.

The VICE PRESIDENT. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. Mr. President, I have no illusion about what the outcome of the vote will be.

I think it is too bad that we take the unprecedented step of trying to tie the hands of the President of the United States at a time when he is trying to extricate us honorably from our wartime involvement.

I think that the United States will live to rue the day when the Senate took this act to encroach on the powers of the President granted him by the Constitution.

The VICE PRESIDENT. The Chair wishes to advise the occupants of the galleries that under the rules of the Senate manifestations of approval or disapproval are strictly prohibited.

The question is on agreeing to the pending committee amendment, as amended.

The yeas and nays have not been ordered.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The VICE PRESIDENT. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG (when his name was called). On this vote I have a pair with the junior Senator from Wisconsin (Mr. NELSON). If he were present and voting he would vote "yea." If I were permitted to vote I would vote "nay." I withhold my vote.

The rollcall was concluded.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Wisconsin (Mr. NELSON) and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Georgia (Mr. RUSSELL) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "nay."

The result was announced—yeas 58, nays 37, as follows:

[No. 195 Leg.]

YEAS—58

Aiken	Hartke	Packwood
Anderson	Hatfield	Pastore
Bayh	Hollings	Pearson
Bible	Hughes	Pell
Brooke	Inouye	Percy
Burdick	Jackson	Proxmire
Byrd, W. Va.	Javits	Randolph
Cannon	Jordan, N.C.	Ribicoff
Case	Kennedy	Saxbe
Church	Magnuson	Schweiker
Cooper	Mansfield	Smith, Ill.
Cranston	Mathias	Spong
Dole	McCarthy	Stevens
Eagleton	McGovern	Symington
Fulbright	McIntyre	Tydings
Goodell	Metcalf	Williams, N.J.
Gore	Mondale	Yarborough
Gravel	Montoya	Young, Ohio
Harris	Moss	
Hart	Muskie	

NAYS—37

Allen	Ervin	Murphy
Allott	Fannin	Prouty
Baker	Fong	Scott
Bellmon	Goldwater	Smith, Maine
Bennett	Griffin	Sparkman
Boggs	Gurney	Stennis
Byrd, Va.	Hansen	Talmadge
Cook	Holland	Thurmond
Cotton	Hruska	Tower
Curtis	Jordan, Idaho	Williams, Del.
Dominick	McClellan	Young, N. Dak.
Eastland	McGee	
Ellender	Miller	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Long, against.

NOT VOTING—4

Dodd	Nelson	Russell
Mundt		

So the committee amendment, as amended, was agreed to.

Mr. CHURCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

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

The motion to lay on the table was agreed to.

SENATOR RANDOLPH SUPPORTS COOPER-CHURCH AMENDMENT

Mr. RANDOLPH. Mr. President, I spoke in this body on May 6 concerning my misgivings over the decision by the President to send U.S. troops into Cambodia. I expressed reservations about the Cambodian action. I said:

> In the interest of our country and world peace, I hope future events and results of the President's orders approving the military venture into Cambodia will prove me wrong. It is my view, however, that the sending of U.S. troops into Cambodia presents a real danger of our active involvement in a conflict expanded beyond Vietnam into an Indochina war with severe economic and human consequences.

In my mind, this grave danger still exists, at least in part, despite the fact that all American troops reportedly have now departed Cambodia.

As Senators know, the congressional response to the action in Cambodia has been an acceleration of efforts to reassert the role of the legislative branch in the foreign policy decisionmaking process and, more specifically, in the formulation of our program to scale down the conflict in Vietnam and effect our disengagement from armed combat in Southeast Asia. The initial effort for achieving this objective was the proposal sponsored successfully by the Senator from Kentucky (Mr. COOPER) and the Senator from Idaho (Mr. CHURCH). Based on the history of our involvement in Vietnam, I felt it was entirely correct for the Senate to address itself to measures asserting the right of the Congress to share in the making of policy under which our Nation is to become involved in another country in Southeast Asia.

The Cooper-Church doctrine, as amended, is not a measure to "tie the hands of the President," as some critics have contended. Rather, it is saying to the President that we understand the realities of the present situation in Vietnam—and we understand the efforts to bring an end to the conflict in Vietnam—but we in the Congress, in discharging our responsibilities, have an obligation to express our convictions and to effect measures to guide the conduct of our future involvement in Cambodia, if any. This, in a sense, is what the Senate is doing in the Cooper-Church amendment. We do not tie the hands of the President. He has constitutional powers which have been recognized and emphasized over and over during debate on the issue. We are asserting, however, that the Congress must become more involved in deciding future actions in Southeast Asia.

Let there be no doubt that in future American military actions in Cambodia, we understand the direct responsibility we would assume, should the Cooper-Church amendment become law. Through enactment of it, Congress would be placed in a better position to discharge its obligations.

The effect of the Cooper-Church proposal has been too much misunderstood. It was clearly stated in debate that the amendment would not prohibit such actions as these: retaliatory measures in response to enemy attacks originating from Cambodia; the use of so-called hot pursuit into Cambodia of enemy forces attacking U.S. troops; and the entry of our troops into Cambodia to prevent an imminent or immediate enemy attack. More importantly, the Cooper-Church provisions do not prevent the use of U.S. airpower in bombing sanctuary areas.

It has been stated on many occasions that the Cooper-Church provisions, as amended, would prevent the President from protecting American troops in the field. The belief that under it the President would be unable to provide needed protection for our Armed Forces has become fixed in the thinking of many people throughout our Nation. I find this regrettable. There is no Member of this body or the Congress who does not desire to insure the protection of our American fighting men.

Although the constitutional authority of the President—which I have discussed—was clearly defined during debate, we wrote into the Cooper-Church amendment a better understanding of this authority through amendments

sponsored by the distinguished majority leader (Mr. MANSFIELD) and my able colleague from West Virginia (Mr. BYRD). In this regard, I wish to commend the Senator from West Virginia (Mr. BYRD) for his searching and penetrating efforts to insure that there is no misunderstanding of the President's authority.

The second proposal by the Senator from West Virginia (Mr. BYRD), which I strongly supported, emphasized, and explicitly recognized the constitutional authority of the President to protect American forces wherever deployed and is a constructive refinement to the Cooper-Church measure.

I am firmly convinced that the Cooper-Church provisions, as amended, will not preclude the President from taking necessary measures to insure the safety of our forces. But except in emergency situations or circumstances of an immediate nature the measure as passed by the Senate will require congressional approval of the entry of U.S. forces into Cambodia.

The amendment outlines the future action that the President might take in Cambodia in the name of either protecting our forces in Vietnam or expediting their withdrawal from that country. The President will have to act within the limits of his constitutional power as Commander in Chief, not under any claimed authority of a congressional waiver.

The Cooper-Church amendment prohibits use of funds, without congressional approval, to retain American troops in Cambodia after July 1.

The amendment will prevent involvement by U.S. personnel, military or civilian, in combat activities with, or in rendering advisory services to, Cambodian forces.

The amendment will prohibit the use of U.S. funds for hiring third country mercenaries to fight in Cambodia, or for engaging in those other activities in behalf of the Cambodian Government which our country's personnel are prohibited from doing directly.

I emphasize that the basic objective of the Cooper-Church amendment is to prevent the United States from becoming involved in a war in Cambodia, or from becoming tied to the defense of the new Cambodian Government without the approval of Congress.

Mr. President, I supported the Cooper-Church proposal and some amendments thereto. I believe that it is an essential element in our efforts to prevent a further escalation of American military activities and those of other countries in Southeast Asia. It is my conviction that this proposal will not do violence to our efforts to aid the Vietnamese people in assuming their own defense. It will not preclude the actions which must be taken by the President to continue to disengage from the conflict in Vietnam.

The VICE PRESIDENT. The Senator from Alaska is recognized.

Mr. MAGNUSON. Mr. President, may we have order?

The VICE PRESIDENT. The Senate will be in order. Senators will be seated. The Senate will be in order.

AMENDMENT NO. 720

Mr. STEVENS. Mr. President, I call up my amendment No. 720, which is an amendment cosponsored by all Members of this body from the Pacific Northwest.

The VICE PRESIDENT. The amendment will be stated.

The LEGISLATIVE CLERK. Mr. STEVENS, on behalf of himself and Senators GRAVEL, MAGNUSON, JACKSON, MANSFIELD, PACKWOOD, and HATFIELD, proposes an amendment as follows:

At the end of the bill insert the following:

"SEC. 15

"PROHIBITION OF ASSISTANCE TO THE REPUBLIC OF KOREA

"SEC. 48. No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of providing assistance of any type to the Republic of Korea unless the President determines that no nationals of the Republic of Korea are fishing salmon east of the line 175 degrees West Longitude."

The VICE PRESIDENT. How much time does the Senator yield himself?

Mr. STEVENS. Mr. President, I yield myself 10 minutes.

The VICE PRESIDENT. The Senator is recognized for 10 minutes. The time of 1 hour is to be equally divided between the Senator from Alaska and the Senator from Washington.

Mr. STEVENS. Mr. President, we shall not take that much time.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, this amendment refers to the question of the presence of Korean fishing vessels manned by Korean nationals in the waters east of the line drawn in the International Pacific Fisheries Convention. These vessels manned by these Korean nationals have not been licensed by Korea to fish for salmon in the waters east of the 175th meridian.

I wish to commend the leadership of the senior Senator from Washington who has taken the initiative to secure an agreement from the Koreans that they would not license their fishermen to fish east of that line and we understood that they would cooperate to see that it was not done. We have had a series of meetings and determined that the Korean nationals did come within this area known generally as the Bristol Bay salmon fisheries area. This is an area which is very important to the fishermen from the Pacific Northwest. A great many Alaskans are involved. There are a great many more fishermen from Oregon and Washington involved in these fisheries.

The amendment would deny the assistance we give to Korea until the President finds that the Republic of Korea nationals have in fact gone back west of that line.

We were advised, at a hearing called by the senior Senator from Washington, that the Korean nationals had in fact determined to return to their own waters and not to fish in the area east of that line. Only yesterday I was informed that the Korean fishing vessels, having picked up their gear and moved on, were in fact fishing as they continued toward the line. They have not kept the second commitment made to us, that they would in fact leave that area.

I had a conversation with Ambassador McKernan, who is with our State Department, and who is involved in our fishing problems. He had suggested that we not call up this amendment because he had been advised the Koreans would leave the area, and he had talked with the Korean Embassy about it. We were advised that the Korean nationals had left the area. Last night, at about 4 o'clock Juneau time, the Coast Guard had in fact sighted fishing vessels which were still there.

I have the report of the Coast Guard before me, to the effect that there were 3 to 4 tons of salmon on the deck of the tanker *Tae Yang* 112, and another vessel in the area. They had loaded at that time 9 to 10 tons of salmon aboard a factory ship. Others were processing fresh salmon.

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

Mr. STEVENS. I yield.

Mr. PASTORE. Are we talking about military aid to South Korea?

Mr. STEVENS. We certainly are.

Mr. PASTORE. Are not the South Koreans fighting with us in South Vietnam? Is this not a rather dangerous way of doing this?

Mr. STEVENS. I think the way they have been treating our fisheries is dangerous, when they gave a commitment that they would not license their fishermen to fish on the high seas east of that line and they are in fact there. These are nothing more than fish pirates. Their own country has asked them to leave. We have understood that they were leaving. We give them much military aid, and by virtue of that military aid they are able to finance shipping which far exceeds that of the fishermen of the Pacific Northwest.

Mr. PASTORE. I am not questioning the argument that they are violating the agreement and that something should be done about it, but, for goodness sake, let us not cut off our nose to spite our face. We have South Koreans fighting in South Vietnam side by side with Americans. Are we going to say to them, "We are not going to give you bullets with which to fight"?

Mr. STEVENS. I think we should say to them that we are not going to support their economy and give them military assistance so long as they violate their commitment.

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

Mr. STEVENS. I yield.

Mr. GRAVEL. I think what has happened is that they could withdraw their troops from South Vietnam and we could withdraw our troops from Vietnam and we would have about the same number of troops in the right places.

Mr. PASTORE. When the Senator does that, I will vote for his proposal, but do that first.

Mr. STEVENS. Mr. President, if I may continue—I wish the Senator from Rhode Island would listen to this——

Mr. PASTORE. I am listening.

Mr. STEVENS. We have been informed, through Ambassador McKernan,

that the South Korean Government has ordered the boats withdrawn, but the Coast Guard advises us they have not left the area and are still fishing for our salmon. I think this bill means a great deal to the Republic of Korea. I think our aid means a great deal to the Republic of Korea. But that salmon means a great deal to our Pacific Northwest, and the Koreans do not have our fishing conservation practices and escapement practices. They are going to destroy the best salmon fisheries in North America, which salmon comes from our rivers.

Mr. PASTORE. If the Senator wrote that into law, I would support it. I know what the problem is.

Mr. STEVENS. That is what this amendment does. Let me read it to the Senator:

> No funds authorized or appropriated pursuant to this Act or any other law may be expended for the purpose of providing assistance of any type to the Republic of Korea unless the President determines that no nationals of the Republic of Korea are fishing salmon east of the line 175 degrees West Longitude.

Mr. PASTORE. That is not what I mean. We ought to get a consensus of the Senate that South Korea is in violation of the agreement and that they ought to stop it, not that we are going to punish them by denying them military aid, when they are in a country fighting in a war where Americans are dying. The Senator is talking about fish. I think we ought to talk about human beings. Let us put some value on them, too.

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

Mr. STEVENS. I yield.

Mr. GRAVEL. In dealing with allies, there has to be a certain honesty. The senior Senator from Alaska has downplayed the point which was evidenced in the hearings held by the Senator from Washington. We are not talking about a private company; we are talking about a calculated act of Government, in violation of the agreement and understanding that we have had with South Korea. If we cannot trust our allies in a simple matter of fishing, we ought to reevaluate our agreements with them in much greater matters.

Incidentally, the boats being used for the fishing are boats received under reparations. So our Government financed those vessels.

Last year they made protestations that they would not fish in this area and that they would stop the Government from fishing in the area. Then a corporation was formed, a number of the executives in fisheries left the Government and went into the operation of the private company, and went right back to the fishing grounds, after they had made statements to our Government that they would not do so. They say, "My gosh, we are so sorry. Those are private people. We did not license them. They left our Government." They went on the high seas, after picking up gear, which was obviously a ruse, came back with fish, not to their own ports, but loaded them and shipped the fish to Japan. If that is not a hoax, I do not know what one is.

Mr. PASTORE. I sympathize with the Senator. I do not like the cloth that the South Koreans are exporting in their textiles to the United States, but we are talking about the severity of punishment as against the crime committed, and I think the Senator is going too far. I think this violation ought to be stopped, it ought to be negotiated; but I would never dare, much as I would like to stop them from sending their textiles into this country——

Mr. MAGNUSON. Mr. President, I think we have talked too much——

Mr. PASTORE. The Senator does not want me to talk. I will sit down.

Mr. MAGNUSON, Oh, no.

Mr. PASTORE. Then do not stop me in the middle. Stop me before I get going.

Mr. MAGNUSON. I did not yield to the Senator.

Mr. PASTORE. If the Senator wants me to stop, let him say so.

Mr. MAGNUSON. I do not have the floor.

Mr. PASTORE. Who has the floor?

Mr. STEVENS. I have the floor.

Mr. PASTORE. Do I have the Senator's permission to continue?

Mr. STEVENS. Yes.

Mr. PASTORE. I am glad to have that understanding.

Mr. President, all I am saying is we are going too far. As much as I do not like the export of textiles into this country, I would not dare suggest saying to them, "Unless you stop exporting textiles in this country, you will not get military aid." That is going too far, because they are fighting side by side with our men in South Vietnam. If we are going to take care of this situation, let us do it in some other way, because we will be cutting off our nose to spite our face.

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

Mr. STEVENS. I yield.

Mr. GRAVEL. What are we fighting for? Part of our northwestern self-interests that we hope we are fighting for happens to be our fisheries. We happen to have a great interest in certain types of fish because they come from our rivers. If in the course of fighting, we lose sight of what we are fighting for, and at the end we say we are friends, but we have lost our fisheries, we have really defeated our own self-interest.

Mr. PASTORE. But not until the boys come back from South Vietnam.

Mr. MAGNUSON. Mr. President, will the Senator yield to me on my own time?

The VICE PRESIDENT. The Senator from Alaska has the floor.

Mr. MAGNUSON. I have time of my own.

The VICE PRESIDENT. How much time does the Senator from Washington yield himself?

Mr. MAGNUSON. I do not want to get into a discussion with my friend from Rhode Island. If he knows a better way to get at this matter and this continuing violation, I will be glad to accept it.

This is no different than what we did in Peru. We were quick to act down there in Peru. We did say we would take away from the aid to Peru the amount of money that we lost in the oil, when they took over the refineries, and then the fish. Maybe we ought to put an amendment up here that we just reduce our aid to South Korea—and this is South Korean aid——

Mr. PASTORE. Yes.

Mr. MAGNUSON. By the value of the fish they take—with treble damages, of course, in this case—and distribute it to our fishermen who are losing the fish. We do not know what else we can do. We have talked and talked with these people. The South Korean Ambassador, Mr. Kim—and I am not criticizing him—keeps reiterating that they are not going to do this, and this is an agreement between the governments, and then every year we wake up and this happens.

I will say to my friend from Rhode Island, as long as he wants to play the straight man in this act, that they are fishing with boats that we gave them also. That is insult upon injury.

Mr. PASTORE. Will the Senator yield?

Mr. MAGNUSON. Wait just a minute. Second, we sent people over there after the Korean war to teach them how to fish. How long are we going to keep this up?

I support the textile proposal. I think we have taken some drastic measures there.

Mr. PASTORE. Oh, no, we have not.

Mr. MAGNUSON. But you finally got a voluntary agreement for part of it.

We do not know what else to do. The Japanese, Canada, and the United States have a treaty. They respect each other's Asian fish and North American fish. The Koreans are not a party to the treaty.

I will tell the Senator another thing that is going to happen, if we do not do something. The Communist Chinese are embarked upon building a fishing fleet, and a good one. They are not in the treaty. If we allow the Koreans to stand up there—the Russians are almost a party to this; they are not a signatory, but they abide by it. They let the Japanese take a certain quota every year.

But we might as well just throw it all away and say goodbye to it. We are not going to let that happen. I do not want to see the textile industry hurt, either, but we get a little bit tired of this. Sure, this is drastic; but what else are we going to do. We have given South Korea $80 billion already; there ought to be a little honesty, as I pointed out, and in reciprocity in this matter.

Mr. FULBRIGHT. Eight, not 80.

Mr. MAGNUSON. Eight billion dollars; and $80 million is in this bill. That is what I meant.

Mr. PASTORE. See how easily we can exaggerate?

Mr. MAGNUSON. Yes. I do not think I have any monopoly on that, either.

Mr. PASTORE. Mr. President, I do not mean it that way. I understand, but I say the Senator is missing the point completely. I think he has a good case, and I favor it.

Mr. MAGNUSON. All right. What does the Senator suggest we do?

Mr. PASTORE. I suggest the Senator write something admonishing them, and that we expect the President to negotiate an agreement to bring this to a stop.

All I am talking about is that we have South Koreans fighting side by side with Americans in South Vietnam today; and if we take away the military aid, it makes

them bare so far as fighting ability is concerned.

I suggest the Senator is going about it the wrong way. This is not the place to do this, unless we just write something in there saying we are tired of this dilly-dallying, and these violations, and we expect the administration and the State Department to bring about an agreement to stop these violations. I would vote for that.

Mr. GRAVEL. Mr. President, if the Senator will yield at that point——

Mr. MAGNUSON. If that would work.

Mr. PASTORE. Let us try it.

Mr. MAGNUSON. It has been tried.

Mr. PASTORE. No; I never heard of it before.

Mr. GRAVEL. It has been tried repeatedly, and we have been treated duplicitously.

As far as equating this with our defense, I think Senators must recognize that they are fighting for their interests in South Vietnam at least as much as we are fighting for ours.

Mr. MAGNUSON. And they are mercenaries. We pay them. But I do not know what else we can do. Maybe this admonition might be helpful, but it has not helped so far, and I do not think for 1 minute—if the management will take this amendment in the bill, I will guarantee that fishing will stop up there by midnight.

Mr. GRAVEL. And, of course, Mr. President——

Mr. MAGNUSON. That is, midnight Alaska time, about an hour from now.

The VICE PRESIDENT. The Senator has only a half hour of time altogether.

Mr. GRAVEL. Does the Senator from Washington yield back his time?

Mr. MAGNUSON. Yes, I yield such time as I have, but I have a little more to say.

The Ambassador keeps saying this is the same as what happened in Peru. We restrict our own people; we will not allow them to fish for salmon on the high seas; we have a tough treaty in the North Pacific, which even Russia, though not a party, adheres to. They told us over and over again—we held hearings in the Commerce Committee, because fishing is within our jurisdiction—the Ambassadors, we met with them I do not know how many times. He cabled his government, and I think maybe the textile people are going to have to take some drastic action, too.

I do not want to fool around with this as long as we fooled around with textiles. I want to get something done, and we do not know of any other way. It is a drastic action, true; it is not one I particularly like. But I will guarantee the Senate that they will quit as soon as we adopt this amendment.

We might have an amendment to deduct a certain amount; I do not know about that.

How much time do I have remaining?

The VICE PRESIDENT. Who yields time?

Mr. GRAVEL. Mr. President, will the Senator yield to me?

Mr. MAGNUSON. I yield.

Mr. GRAVEL. I would just like to state——

The VICE PRESIDENT. Before the Senator continues, as far as the Chair is concerned, the time is 1 hour on this amendment, 30 minutes to a side. The Senator from Washington has 23 minutes remaining.

Mr. MAGNUSON. I yield such time as he may require to the Senator from Alaska.

Mr. BYRD of West Virginia. Mr. President, under whose control is the time?

The VICE PRESIDENT. The time is to be controlled, under the general agreement, by the mover of the amendment and the majority leader, or his designee, on the other side.

The Chair assumes the Senator from Washington is the designee of the majority leader.

Who yields time?

Mr. GRAVEL. Mr. President, I yield 5 minutes to the Senator from Ohio.

The VICE PRESIDENT. The Senator from Ohio is recognized for 5 minutes.

Mr. SAXBE. Mr. President, I have listened with a great deal of interest to this discussion about the fishing. I do not believe that I can support this type of amendment, but I have great sympathy for it, because it is the same thing that I have been raising and others have been raising about the indifference of our State Department, or the bureaucracy that seems to exist with regard to our domestic industries.

At the present time, the fishery situation as described by the Senator from Alaska is a great deal simliar to the beef situation about which I talked last week, and the imported meat, where we seem completely indifferent to the fact that packing houses are closing up one after another, not because of sanitary requirements, but by arbitrary rules as to room size, the size of water pipes, and other such items, while at the same time we are permitting vast quantities of imported meats to come into our country that are not inspected.

There are, I understand, a total of 15 Federal inspectors for all of our imported meat, and they can kill a beef under a tree in New Zealand or Argentina and bring it in here, while we are putting packers out of business who do comply with sanitary standards, but, because of some construction problem, do not meet arbitrary standards that have been set.

Mr. STEVENS. Mr. President, will the Senator yield at that point?

Mr. SAXBE. None of us are interested in permitting tainted beef or any other tainted meat to be sold, but I submit that the beef problem, the steel problem with which most of us are familiar, such as we have in the State of Ohio, where we permit anyone to ship steel into the United States while at the same time that country will not permit us even to unload a shipful of steel in their harbor. It is not a tariff. It is trade rules and tax rebates.

Ohio is one of the big machine tool producers. We are undercut constantly, not because we cannot compete, but because we do not get a chance to compete.

The roller bearing companies of Ohio have a worldwide recognition. They are being priced out of our own country, not because they cannot compete, but because of dumping. We have no concern for this. It sometimes makes me wonder whose side the Government is on with regard to this. In textiles, in shoes, in steel, in meat—in all these things we have to take an attitude such as the Senator from Alaska is proposing—a hard attitude.

We ship a shipload of steel to France, and before we ever get a chance to unload it, we have to tell them what we are going to price it at. We have to show a domestic invoice plus freight, or they will say, "Do not unload it."

A Toyota automobile sells here for $1,800. You could not ship a Chevrolet to Japan if you gave it to them.

This is something we will have to recognize. In trying to help the entire world, we have laid open our markets, so that it is costing our people their jobs and their investments, and we are completely indifferent. We say that we want to help this country and we want to help that country.

Our friends in South Korea are one of many who are taking advantage of situations that we have helped them develop. I do not think this is the way to get at it. I think this is an around-the-barn type of approach.

But I do want to express my sympathy and hope that from this discussion and other discussions we will put some backbone into our Commerce Department and into our State Department, in recognizing that jobs, investment, and the whole business structure of our country is being priced out of world trade, not by tariffs—everybody says we do not want a tariff war—but because we are not permitted to compete in the countries that ship freely into this country.

A man from the Japanese Embassy who was in my office not over 3 weeks ago said, "We are going to exceed the gross national product of the United States in 10 years." How are they going to do this? Simply by denying us the markets and reducing the ability of the people of this country to compete.

Mr. STEVENS. Mr. President, I do not believe the Senator from Ohio and the Senator from Rhode Island grasp the problem I have tried to state. This is a conservation problem. We do not permit our own fishing vessels to fish on the high seas. We are not talking about imports; we are not talking about competition. We are talking about conservation of a resource that belongs to this continent. Unless we do something, these people will not stop what they are doing, which is destroying the greatest fishing left on the North American Continent.

I agree that this amendment is drastic. Perhaps we can limit it to economic aid, as my colleague from Alaska has said. But at least let us tell them, "Stop destroying our resource"; and I think we have the power to do it. The power of the purse is the strongest power I know.

Mr. PASTORE. It is a horse of a different color if we get into limiting economic aid. I do not think that should be done, either. But I agree with the Senator from Ohio. I have made the speech he has made a hundred times on the floor of the Senate. We ought to stop

being Santa Claus, because I think that, step, by step, they are killing the goose that laid the golden egg.

Just a week ago, I said on the floor of the Senate that there is not a nation in the whole free world that does not have a limitation against American goods.

As the Senator has said, we cannot ship an automobile into Japan. We cannot ship a camera into Japan. But look at what they are doing to us. The imbalance in payments between us and Japan is $1.5 billion in their favor. Here we are—we are met with a deficit in our balance of payments of over $7 billion, and something must be done in order to stabilize the American dollar. I agree with all this. I am saying that the punishment they are meting out under the circumstances is going to hurt us more than the good it will do.

I hope the Senators will give this serious consideration, because I think they will then gain many friends. I think that the Senators have a meritorious complaint and something has to be done about it. But do not take the guns away from the South Koreans, who are fighting alongside the Americans in Vietnam. That is what will be done if military aid is taken away.

Mr. MAGNUSON. Mr. President, there is no intention to take military aid away, and it will not happen.

Mr. PASTORE. I ask that question.

Mr. MAGNUSON. They are being paid. We are only talking about South Korea. This is not an import. This is a stealing of a resource; that is what it amounts to.

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

Mr. MAGNUSON. I yield.

Mr. GRAVEL. Mr. President, I think we have worked out a compromise, realizing the wisdom of the Senator from Rhode Island about how drastic the prior move may have been.

With the permission of Senator STEVENS, we would like to modify the language to read as follows:

No funds authorized or appropriated—

And strike the next two lines and insert:

for economic aid to the Republic of Korea may be expended unless the President first determines that no nationals of the Republic of Korea are fishing salmon east of the line 175 degrees West Longitude.

Mr. STEVENS. Does the Senator ask unanimous consent that that be substituted for my amendment?

Mr. GRAVEL. That we modify the amendment, not substitute.

The VICE PRESIDENT. Does the Senator wish to modify his amendment?

Mr. STEVENS. I am pleased to modify my amendment in that respect, and I ask unanimous consent for that purpose.

The VICE PRESIDENT. The amendment is so modified.

The amendment of Mr. Stevens, as modified, is as follows:

At the end of the bill insert the following:

"SEC. 15. —

"PROHIBITION OF ASSISTANCE TO THE REPUBLIC OF KOREA

"SEC. 48. No funds authorized or appropriated for economic aid to the Republic of Korea may be expended unless the President first determines that no nationals of the Republic of Korea are fishing salmon east of the line 175 degrees West Longitude."

Mr. STEVENS. Mr. President, I ask unanimous consent to have various material in connection with this matter printed at this point in the RECORD.

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

OPENING STATEMENT BY SENATOR WARREN G. MAGNUSON FOR MEETING TO DISCUSS PROBLEMS ASSOCIATED WITH THE SOUTH KOREAN FISHERY FOR SALMON AND OTHER SPECIES IN THE NORTH PACIFIC, MARCH 11, 1970

Yesterday several of my colleagues from the State of Washington, including Senator Jackson, Congressman Pelly and Congressman Meeds, met with the Ambassador of Korea Don Jo Kim, who was accompanied by Mr. Choi (Chay), economic counselor for the Embassy. Our own fisheries Ambassador Donald McKernan from the Department of State, and Deputy Assistant Secretary for Fish and Wildlife and Parks and Natural Resources from the Department of the Interior, Charles H. Meacham were present.

This problem of Korea fishing in the North Pacific and the critical danger to our present International North Pacific Fisheries Convention and, indeed, the entire West Coast salmon resources was not a new one to anyone present. Our Government has held numerous talks with Korean officials both here in Washington and in Seoul on this problem but have been unsuccessful in attaining much more in the way of assurance than we had for last year's season. As you all know, the Koreans, despite lack of license and reported pressure from their own Government, did take a substantial quantity of salmon in the North Pacific very close to the Coast of Alaska.

At yesterday's meeting we reached a four-point understanding. It is not a final or satisfactory answer to any of us, but it is a hopeful sign and a step toward the kind of assurances we need to continue a kind of orderly harvest of the important West Coast salmon stocks, not only those from Bristol Bay, Alaska, but from every salmon-producing stream of the Pacific States.

We have been advised that the Director of the Korean Department of Fisheries, Mr. Koo, will be coming to the United States later this month. Our Government, together with the Korean Ambassador, will discuss the following four points:

1. Try to reach agreement on the location of the species which the Korean vessels will be licensed to harvest and also agree on those times and locations where North American salmon runs may be present and thus subject to their fishing effort.

2. Try to agree on the kind of gear that will be used by the Korean vessels so that there will not be salmon gear aboard.

3. Determine the kinds of observation and enforcement to be carried out by the Korean Government to assure that the vessels will abide by any agreement reached.

4. Reiterate the necessity for settling this issue at the earliest possible moment, not only in light of the need for early departure of the Korean fleets to the North Pacific, but also to assist in the necessary planning for our own industry and scientists so that conservation needs can best be served.

Obviously, other activities will continue both here in Washington and in Korea toward a resolution of this problem, not only for the 1970 season but for future years so that we will not be faced with unusual ad hoc solutions to this fishing threat.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Washington, D.C., March 17, 1970.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR TED: The information you received concerning the intentions of the South Koreans to send an 8,000-ton mothership, accompanied by a fleet of catcher vessels, to the North Pacific this year to fish for salmon was also called to our attention by members of our industry. We immediately contacted our embassies in Tokyo and Seoul for verification. Subsequently, we obtained through our fishery attache in Tokyo and other reliable sources details of the South Korean venture. They are indeed equipping a large mothership fleet, approximately the same size as a Japanese mothership fleet, (a 9,400-ton processing ship and thirty catcher boats) to catch and process salmon on the high seas with a target catch of about 3,000 tons. This fleet apparently will be operated by the Tae Yang Company which was found through a merger of the two companies, Sam Yang and Shin Hung, which were involved in the 1969 salmon operation.

The South Korean Government assured us on February 18 that it will not license its vessels to fish for salmon, but has not been able to provide satisfactory assurance to us that it will regulate the operations of its fleet to prevent the recurrence of the kind of incident we had last year.

Consequently, being mindful of last year's unfortunate incident, I contacted our Commissioners on the U.S. Section of the International North Pacific Fisheries Commission to apprise them of this situation and also called a special meeting of the Section on March 6 at Seattle.

We discussed this situation in depth at that meeting and agreed to take several measures in an attempt to deter the South Koreans. First, on behalf of the U.S. Section, I am writing directly to the Secretary of State and requesting his assistance on the problem; second, we are contacting the other National Sections through the INPFC Secretariat to inform them of developments, including the convening of the special meeting, and requesting their help in dissuading the South Korean fishermen from fishing salmon. I am enclosing for your information a list of those who attended the meeting.

We are also continuing to work closely with the Department of State in seeking firm assurance from the Korean Government that its fishermen will not be permitted to fish salmon and that it will implement effective regulatory measures. In line with this approach, Congressional Members and representatives from the Departments of State and Interior met with the Korean Ambassador on March 10 to exchange views on this problem.

I appreciate your offer of assistance, and will certainly avail myself of your good offices if it becomes desirable to do so. In any event, I will keep you advised of developments.

Sincerely yours,

CHUCK,
Commissioner.

STATEMENT OF WESTERN ALASKA COOPERATIVE MARKETING ASSOCIATION, APRIL 1, 1970

(The following statement has been prepared for distribution in order to bring to the attention of those persons in government, elected as well as appointed to office, views of those Bristol Bay fishermen who demand that the State and Federal Governments redirect their fisheries policies with respect to the taking of Bristol Bay salmon on the high seas by citizens of other nations.)

Submitted herewith is a Resolution adopted by the Dillingham Advisory Committee to the

Alaska Board of Fish & Game. It also has the support of this Association which represents 400 resident Bristol Bay fishermen.

We have been following closely the developments relating to the threat of the South Korean high seas salmon fishery. Because the consequences of this incursion would, in a few years, bring about the ruin of our regional economy, and, in the long run, would result in the devastation of all our North American salmon fisheries, we sincerely hope that the present efforts to achieve a diplomatic solution in the few weeks remaining will be met wtih success.

However, we urge that the United States should also move in the direction of providing for the long term protection of its salmon stocks in a manner clearly consistent with accepted principles of international law. It is our past failure to do this which would now permit nations not signatory to the International North Pacific Fisheries Convention to claim legal right as the basis for their interception of our salmon runs on the high seas.

We salmon fishermen strenuously object to the position taken by certain of our diplomats that such nations have that right. We salmon fishermen bitterly resent the fact that our government has never based its legal claim to its salmon resources upon their anadromous character. It was not our voice which counseled at Geneva that our case for salmon should be based upon abstention rather than anadromy. It is not our voice which today concedes that the legal weight in our dispute with South Korea lies with our adversary.

We, too, have our legal rights, and rather than permit other nations unilaterally to destroy our salmon resources the United States should assert them.

Cordell Hull once warned Japan that the United States has a special and unmistakable interest in these salmon and regarded that interest as important to the comity of our nations. That warning sufficed then; if necessary it should be repeated for all the world to hear.

We salmon fishermen feel that the United States should openly start to lay the foundations for the adoption and ratification of a Convention for the Conservation of Salmon when Present on the High Seas.

At the same time the United States should open diplomatic discussions with the 37 nations signatory to the Convention on Fishing and Conservation of the Living Resources of the High Seas. Ratification by 22 nations would furnish the legal basis for the United States as a coastal nation to take unilateral action to preserve its salmon resources. 17 nations had ratified this Convention as of 1964, and no more than 5 ratifications are now necessary to bring it into force. An international campaign for supportive ratification is required.

Several years ago we salmon fishermen proposed State legislation which would have imposed a tax of a few cents per case upon the Alaska salmon pack. We asked that the funds would be used to gain international support for Conventions to protect our salmon on the high seas. The salmon canners opposed this legislation and it did not receive administration support. It was given the kiss of death when there was created in the Governor's Office the position of the Director for International Fisheries. So far as we have been able to learn the program we proposed then came to a complete halt.

We salmon fishermen now find it ironic that these same salmon canners have hit the panic button in their desperate need to arrive at a short-term diplomatic solution to the problem of Korean salmon fishing after having sabotaged our earlier proposal to establish a sound legal basis for a long-term solution.

The present Director for International Fisheries is a biologist who is experienced in administrative and legislative procedures. We suggest that Governor Miller give him a mission well suited to his official title. That is: to express the views of Alaska's salmon fishermen by seeking national and international support for Conventions which will protect our salmon on the high seas.

We, in Alaska, face the forfeit of our salmon resources through inaction imposed upon our state and federal governments by those domestic interests which would sacrifice them upon the altar of abstention.

This need not happen.

TRUMAN C. EMBERG,
Business Manager, WACMA.

A RESOLUTION FOR THE PROTECTION OF BRISTOL BAY SALMON STOCKS

Whereas, the economy of Bristol Bay is based upon its salmon fisheries, and

Whereas, these salmon, when in territorial waters, may be taken by private persons only in such manner as the State may provide, and

Whereas, as a conservation measure the United States does not permit its nationals to take these salmon on the high seas, and

Whereas, fishermen from the Republic of South Korea are preparing to take these salmon in the approaches to Bristol Bay in waters forbidden to its nationals by the United States, and

Whereas, the provisions of the Geneva Convention on Fishing and Conservation of the Living Resources of the High Seas are as follows:

"ARTICLE 6.

"A coastal State has a special interest in the maintenance of the productivity of the living resources in any area of the high seas adjacent to its territorial sea.

"A coastal State is entitled to take part on an equal footing in any system of research and regulation for purposes of conservation of living resources of the high seas in that area, even though its nationals do not carry on fishing there.

"ARTICLE 7.

"1. Having regard to the provisions of paragraph 1 of Article 6, the coastal State may, with a view to the maintenance of the productivity of the living resources of the high seas, adopt unilateral measures of conservation appropriate to any stock of fish or other marine resources in the area of the high seas adjacent to its territorial sea provided that negotiations to that effect with the other States concerned have not led to an agreement within six months.

"2. The measures which the coastal State adopts under the previous paragraph shall be valid as to other States only if the following requirements are fulfilled:

"(a) That there is a need for urgent application of conservation measures in the light of the existing knowledge of the fishery.

"(b) That the measures adopted are based upon appropriate scientific findings.

"(c) That such measures do not discriminate in form or in fact against foreign fishermen."

Now therefore be it resolved, that the Government of the United States act promptly to implement the unilateral adoption of a conservation rule forbidding the high seas fishing on salmon stocks which originate in the waters of the United States by nationals of other nations except as may be negotiated by treaty.

(NOTE.—This Resolution was adopted on March 22, 1970, by the Dillingham Advisory Committee to the Alaska Board of Fish and Game.)

DEPARTMENT OF STATE,
Washington, D.C., April 14, 1970.

Hon. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: I have received your letter of March 23 with further reference to the possibility of Korean fishing for salmon in the North Pacific this year.

I am sure you will be pleased to know that the Department's recent discussions on this matter with the Korean Director of Fisheries were cordial and ended on a satisfactory note. As a result of these talks we are confident that the Korean Government is taking the necessary steps to ensure that its licensing policy will be carried out and that there will be no Korean salmon fishing in the northeastern Pacific this year.

Please call upon me when I can be of assistance on this or any other matter.

Sincerely,

H. G. TORBERT, Jr.,
Acting Assistant Secretary,
for Congressional Relations.

WASHINGTON, D.C.

Hon. TED STEVENS,
U.S. Senator,
Washington, D.C.

I regret to hear Korean nationals fishing salmon in the bering sea despite Korean government guidance to refrain from such fishing. I immediately reported this matter to my government with strong recommendation take urgent action to end all salmon fishing in this area. Earnestly hope effort by our two governments will prevent this incident from causing any serious problem between our two countries.

DONG JO KIM, *Korean Ambassador.*

JUNE 29, 1970.

Hon. DONG JO KIM,
Republic of Korea,
Washington, D.C.:

After being informed that fishing vessels of Korean nationals departed Alaskan waters following hearing by United States Senate Commerce Committee, I determined not to call up my amendment to the Military Sales Act now pending before the Senate. This was done after conversations between Ambassador McKernan and also between members of your staff and mine. Governor Miller advised me at 12:00 midnight Monday that he had received report that Korean vessels had returned to Alaskan waters and were resuming fishing. I personally inquired of Coast Guard and was informed that Korean vessels had been sighted east of the treaty line. I expect a briefing before 10:00 a.m. Tuesday from the Coast Guard, and if this information further confirms these reports I have no alternative but to call up my amendment to prohibit any further United States assistance to your country so long as your nationals fail to live up to the commitment we received that Korean nationals would not be licensed to fish for salmon east of the treaty line and that your government would take action to prevent them from doing so without a license. I am sending you this telegram to give you an opportunity to clarify the situation before this matter is brought before the Senate.

TED STEVENS,
U.S. Senator.

SOUTH KOREAN FISHING-OBSERVATIONS BY IRONWOOD

At 270430Z the CGC *Ironwood* reported that she had sighted 5 South Korean fishing vessels approximately 66 miles southeast of St. George Island. One of the vessels, the *Tae Yang* 112 was off-loading freshly caught salmon onto the *Tae Yang 11*, a factory

ship. The *Tae Yang* 112 already had 3–4 tons of salmon on deck. Another vessel, the *Tae Yang* 110 had a deck load of pollock. Gill nets were seen on the stern of two of the vessels observed in the area. From 270845Z until 272220Z the *Ironwood* observed 5 more South Korean vessels in the area. One of these newly sighted vessels offloaded 9–10 tons of salmon onto the factory ship *Tae. Yang* 11, and 3 others were in the process of unloading freshly caught pollock onto the factory ship. The *Ironwood* conducted a courtesy boarding of the factory ship *Tae Yang* 11 and was told that all gill net fishing vessels had completed operations in the area and were soon to depart for Korea, with the *Tae Yang* 12. The *Tae Yang* 11 stated that she intended to remain in the area in support of the trawling fleet until at least August. Orders have been received from the fishing company manager to cease salmon fishing. On 28 June the *Ironwood* observed the *Tae Yang* 116 and *Tae Yang* 117 offloading salmon to the *Tae Yang* 11. The total amount offloaded was unknown due to fog but was estimated to be at least 5 tons. The *Tae Yang* 12 with gillnetters 103, 105, 106, 108, 111, and 117 sailed on a westerly course at 11 knots at 290100Z. The *Tae Yang* 112, 115 and 116 are unaccounted for. The *Tae Yang* 11 sailed at 290115Z towards Pribilof Islands. The *Ironwood* is presently following the *Tae Yang* 11 at best possible speed. *Case Pends.*

CCGD17: Contiguous zone violation—Akebono Maru 11 (JA)

At 271745Z a Coast Guard HU16E fixed wing aircraft sighted the F/V *Akebono Maru* 11 with trawl in the water 9.3 miles from Chichagof Island north of Sitka, Alaska. The aircraft dropped a message block ordering the vessel to stop as he was in violation of U.S. law. The vessel retrieved the message and proceeded offshore. The aircraft maintained surveillance and the CGC *Clover* and OGC *Cape Coral* were dispatched. At 280320Z the *Clover* arrived on scene, boarded, and seized the *Akebono Maru* 11 for violation of P.L. 89–658, fishing inside the U.S. Contiguous Zone. At 1547Z the Japanese vessel was moored at Sitka, Alaska, in custody of the CGC *Clover*. Neither the master nor the crew were under arrest. The U.S. attorney in Anchorage was notified of the mooring. Case pends.

D. P. HARRINGTON,
Ens. USCGR.

SOUTH KOREAN VESSELS BOARDED

The Department is working closely with the Coast Guard in maintaining surveillance over the South Korean fleet. The Coast Guard vessels *Yocona* and *Confidence* are now out on patrol and a fishery enforcement officer from the Bureau of Commercial Fisheries is on each of these vessels.

The following summarizes the sightings and boardings made:

June 21: The *Confidence* sighted four vessels (*Tae Yang Nos. 103, 105, 112* and *115*) engaged in salmon fishing about 100 miles north of the west end of Unimak Island (56°N.-165.5° W.) All four vessels were engaged in salmon fishing, i.e., had salmon gear on deck, in water, or salmon in hold.

Two vessels were boarded, the *105* and *115*, The *105* had salmon net ready for setting. It was covered with a layer of 2-inch herring web in apparent attempt to conceal net. The vessel had frozen salmon (identified as red and king salmon) in hold, in addition to porpoises and butchered sea lion.

The *Yocona* sighted the *Sung Nam No. 5*, which belongs to second company engaged in salmon fishing. Courtesy boarding made at position about 100 miles north of Umnak Island (55°23 N.-170°02′ W.) Korean master stated vessel fishing for herring and showed sections of new herring net with 2.4 inch mesh. Net not used and not rigged (without cork line or lead line) for fishing. *Yocona* found gill net in water nearby. Inspected first 100 fathoms. Found to be salmon gill net of 4⅝″ mesh. About two dozen salmon gilled in net.

June 22: The *Confidence* located large numbers of gill nets about 100 miles east southeast of the Pribilof Islands, some stretching several miles. Some nets reported heavily laden with salmon and very difficult to sight even in daylight. Floats not lighted.

(Note: On basis of BCF observations, it is believed some gear being abandoned.)

Courtesy party from *Confidence* boarded *Tae Yang No. 106* about 120 miles due north of Dutch Harbor. Korean master reported morning catch of 5,000 salmon and still hauling nets. No fishing license on board. Claimed factoryship *Tae Yang No. 11* holds license.

June 23: *Confidence* party boarded factoryship *Tae Yang No. 11* about 120 miles NNW of Unimak Pass. Two salmon gillnetters (*Tae Yang Nos. 103* and *111*) unloading salmon. Three others (*105, 106,* and *108,* with decks full of salmon, were standing by to unload.

Reception received by boarding party formal. English spoken on mothership so no difficulty in communication. Korean master gave information to boarding party on fleet composition, gear and catch. (See *1970 South Korean salmon fishery operation*)

June 24: The *Confidence* sighted gillnetter *Tae Yang #117* 60 miles north of Akun Island (Krenitzen Is.)

Described the salmon gear being used by the South Koreans. Provided estimate of Korean catches of salmon. Observation of one net indicated catch of 1.3 salmon per meter. This is equal to about 12,000 fish per vessel. Sampled 21 fish for size. Average weight 5 pounds per fish.

Confirmed salmon salted in round. No herring in catch. Catch totals provided by master of *Tae Yang #11* (See Item 7. Catch quantity) represented catch total for whole fleet. (Note: This number still very suspect.)

Confidence party boarded *Tae Yang #106* in afternoon. Position: 56°09′ N.–166°50′ W. The vessel had on board about 3,000 small tanner crabs on board, 75 percent of which were egg-bearing females, carapace width two inches. Crabs apparently caught as result of nets sinking to bottom due to large quantity of fish gilled. (Message not clear whether tanner crabs were being retained or had not yet been removed from net.) The master was warned concerning the retention of species constituting creatures of the Shelf.

The vessel also had in its forward hold a fur seal. Warning issued.

1970 SOUTH KOREAN SALMON FISHERY OPERATION

1. SIZE OF KOREAN FLEET

Three Korean firms are believed to be operating fishing vessels in the Eastern Bering Sea, and of these firms two are engaged in salmon fishing. The largest is the Sam Yang Company which has taken over the management of the Tae Yang Company. It has 23 vessels engaged in fishing.

The 23 vessels are composed of:

One large mothership *Tae Yang #11*, 7,070 gross tons (9,400 d.w.t.). This vessel is the former *Shin Hung #11*. Vessel built in Norway and equipped with salmon canning lines (made in Japan).

Two freezer vessels: The *Tae Yang #12*, 1,330 gross tons and the *Tae Yang #15*, 960 gross tons.

Eleven trawlers (6 of which are pair trawlers) Two of the pair trawlers, *Tae Yang Nos. 203* and *205*, were seized on June 5 for failure to obtain permission to enter U.S. territorial waters, and taken to Adak. The *203* had a broken crankshaft. In view of mitigating circumstances (the vessels attempted to seek clearance through their government), the case was settled out of court and each vessel assessed penalty of $500.

Nine salmon gillnetters.

The second firm engaged in salmon fishing is reported to be operating three salmon gillnetters.

2. FISHING LICENSE ISSUED TO FLEET

The U.S. Embassy in Seoul reported that the Korean fleet belonging to Sam Yang was licensed to fish bottomfish and herring only. The company's gillnetters fished for salmon in the Sea of Japan March through early May. Prior to their departure for the Bering Sea, the Embassy reported that the gillnets used for the Japan Sea salmon operation were removed and replaced with herring gillnets of 2.4 inch mesh.

3. SALMON FISHING GEAR

Observations made and information collected by Coast Guard and Bureau personnel reveal that the Korean salmon vessels are each equipped with 10 kilometers (6.2 miles) of 4.5″ mesh gillnets. They are believed to be of Korean manufacture. Described to be brown, light lay twine. Different from Japanese monofilament.

4. SALMON FISHING AREA

The Korean fleet is fishing for salmon about 100–120 miles north of western part of the Alaska Peninsula west to around Unmak Island. This area is in direct migration route of Bristol Bay salmon.

5. ARRIVAL ON FISHING GROUND

The Koreans have indicated they arrived on fishing ground June 16. They were first detected fishing salmon June 21. The salmon vessel planned to remain on fishing grounds until July 5.

6. SPECIES FISHED

The master of Tae Yang #11 (factoryship) reported that they are fishing for bottomfish and the salmon are being taken incidentally to herring. No denial made they are taking salmon. Attitude reflected by personnel on factoryship indicated they had prior assurance regarding freedom to fish salmon. Factoryship licensed to fish cod, herring and pollock.

7. CATCH QUANTITY

The master of the *Tae Yang #11* indicated the daily catch of his fleet to be 50 metric tons (110,000 pounds) of bottomfish and 20 metric tons (44,000 pounds) of salmon. Using 5-lb. conversion factor, this totals about 9,000 salmon. These figures are believed to represent the average catch per day per vessel.

The master also reported the total catch of the fleet (at time of boarding made on June 23) to be 100 metric tons (220,000 lbs. or about 44,000 salmon). This number is highly suspect.

8. POTENTIAL SALMON CATCH

Based on fishing experiences of U.S. fishermen and Washington Bureau experts, the area fished by the South Koreans, the size of this year's run, and the type and amount of gear fished, each of the nine gillnetters fishing for the factoryship is estimated to have the capability of easily catching over 10,000 salmon daily, or 50,000 pounds of fish. For the entire fleet, this totals about 100,000 salmon (½ million pounds or 230 metric tons) per day. This quantity does not include the salmon caught by the three gillnetters fishing for the second company.

Our best estimate at this time is that by seasons end the South Koreans will have caught from 1.2–2.2 million fish.[1]

9. DISPOSITION OF CATCH

The Korean master on factoryship indicated that the salmon are being salted. This information is being checked. This means that the factoryship's canning equipment is not being used for the purposes intended.

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[1] Estimate based on catch of 10,000–12,000 fish/day by 12 vessels for 10–15 day period.

LOANS AND GRANTS FROM ABROAD

SOUTH KOREA

[U.S. fiscal years—Millions of dollars]

U.S. program	U.S. overseas loans and grants, net obligations and loan authorizations														
	Post-war relief period 1946–1948	Marshall plan period 1949–1952	Mutual Security Act period 1953–1961	Foreign assistance act period									Repayments and interest 1946–1968	Total less repayments and interest	1969
				1962	1963	1964	1965	1966	1967	1968	Total 1962–1968	Total 1946–1968			
AID and predecessor agencies, total		10.0	2,042.4	119.8	107.6	104.9	118.6	143.9	112.9	71.6	799.3	2,831.6	10.0	2,821.6	43.2
Loans			25.3	25.2	25.8	27.6	47.9	79.0	60.3	29.4	295.2	320.6	10.0	310.6	19.0
Grants		10.0	2,017.1	94.6	81.8	77.3	70.7	64.9	52.6	42.1	484.0	2,511.0		2,511.0	24.1
Food for freedom, total		.3	313.8	70.6	73.4	112.8	63.3	119.1	63.3	99.3	601.8	916.1	1.2	914.9	193.4
Title I, total			176.5	60.4	62.1	79.4	34.4	38.1	36.1	56.5	367.0	543.6	1.2	542.4	132.0
Payable in U.S. dollars, loans									1.5		1.5	1.5		1.5	97.1
Payable in foreign currency, planned for country use			176.5	60.4	62.1	79.4	34.4	38.1	34.6	56.5	365.5	542.1	1.2	540.9	34.9
Total sales agreements, including U.S. uses			(211.3)	(68.6)	(69.7)	(93.2)	(42.5)	(47.7)	(43.2)	(79.1)	(444.0)	(655.3)		(655.3)	(49.2)
Planned for country use			176.5	60.4	62.1	79.4	34.4	38.1	34.6	56.5	365.5	542.1	1.2	540.9	34.9
Economic development loans															
Economic development grants															
Common defense grants			174.4	60.3	61.8	79.3	34.0	37.6	31.7	53.7	358.4	532.9		532.9	32.0
Cooley loans			2.1	.2	.3	.1	.4	.5	2.8	2.8	7.1	9.2	1.2	8.0	3.0
Other grants															
Assistance from other country agreements															
Title II, total		.3	137.3	10.2	11.3	33.4	28.9	81.0	27.2	42.8	234.8	372.5		372.5	61.4
Emergency relief, economic development and world food program			22.1		1.2	23.2	20.3	69.8	24.7	39.7	178.8	201.0		201.0	59.1
Voluntary relief agencies		.3	115.2	10.2	10.1	10.2	8.6	11.2	2.5	3.1	55.9	171.5		171.5	2.3
Export-Import Bank long-term loans									3.8	16.2	20.0	20.0		20.0	2.6
Other U.S. economic programs	181.2	475.3	202.8					0.5	1.4	1.7	3.6	862.9	6.5	856.4	1.4
Peace Corps								0.5	1.4	1.7	3.6	3.6		3.6	1.4
Social Progress Trust Fund															
Other [1]	181.2	475.3	202.8									859.3	6.5	852.8	
Total economic	181.2	485.6	2,559.0	190.4	181.0	217.7	181.9	263.5	181.4	188.8	1,407.7	4,630.6	17.7	4,612.9	240.6
Loans	24.9		27.4	25.4	26.1	27.7	48.3	79.5	68.4	48.4	323.8	376.2	17.7	358.5	121.7
Grants	156.3	485.6	2,531.6	165.1	154.9	190.0	133.6	184.0	112.9	140.3	1,080.8	4,254.4		4,254.4	118.9
Military assistance program (Chg. to FAA App.) [2]		11.7	1,388.5	136.9	169.1	124.3	173.1	153.1	149.8	197.4	1,103.7	2,768.6		2,768.6	210.0
Credit Assistance															
Grants		11.7	1,388.5	136.9	169.1	124.3	173.1	153.1	149.8	197.4	1,103.7	2,768.6		2,768.6	210.0
Additional grants from excess stocks		(0.6)	(119.8)	(52.6)	(21.1)	(13.4)	(46.1)	(15.6)	(3.5)	(6.7)	(159.0)	(324.8)		(324.8)	(27.7)
Other military assistance grants			43.3		13.4						13.4	56.7		56.7	
Total military		11.7	1,431.8	136.9	182.5	124.3	173.1	153.1	149.8	197.4	1,117.1	2,825.3		2,825.3	210.0
Total economic and military	182.1	497.3	3,990.8	327.3	363.5	342.0	355.0	416.6	331.2	386.2	2,521.8	7,455.9	17.7	7,438.2	450.6
Loans	24.9		27.4	25.4	26.1	27.7	48.3	79.5	68.4	48.4	323.8	376.2	17.7	358.5	121.7
Grants	156.3	497.3	3,963.4	302.0	337.4	314.3	306.7	337.1	262.7	337.7	2,197.9	7,079.7		7,079.7	328.9

[1] Represents (in millions), CRIK, $420.2; civilian supplies, $292.1; Korean aid program, $121.6; surplus property credits, $24.9; and UNRRA, $0.6.
[2] Annual data represent deliveries; total through 1968 is the cumulative program.

ASSISTANCE FROM INTERNATIONAL AGENCIES—COMMITMENTS

	Fiscal year 1967	Fiscal year 1968	Fiscal years 1946–68
Total	2.1	20.9	50.6
IBRD-World Bank		5.0	5.0
Int'l Development Association		11.0	25.0
Int'l Finance Corporation		.7	.7
UNDP—Special Fund	1.4	3.2	14.2
UNDP–TA (CY)	.3	.3	2.0
Other UN (CY)	.4	.7	3.7

D.A.C. COUNTRIES (EXCLUDING U.S.) OFFICIAL BILATERAL GROSS EXPENDITURES

Donor	Calendar year 1966	Calendar year 1967	Calendar years 1960–67
Total	49.7	77.3	212.1
Japan	35.8	58.2	150.1
Germany	6.6	15.1	41.5
Italy	5.6	1.4	8.0
Other	1.7	2.5	12.5

ASSISTANCE FROM COMMUNIST COUNTRIES

(Loans and grants extended)

1967 (calendar year)	
1968 (calendar year)	
Cumulative through 1968	

Mr. MAGNUSON. I yield back the remainder of my time.

Mr. STEVENS. I yield back the remainder of my time.

The VICE PRESIDENT. The question is on agreeing to the amendment, as modified.

The amendment was agreed to.

Mr. MAGNUSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAVEL and Mr. BYRD of West Virginia moved to lay the motion on the table.

The motion to lay on the table was agreed to.

The VICE PRESIDENT. What is the will of the Senate?

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, I am going to take this time, if I may, to comment on the bill which we now have before us, and the action of the Senate which has been taken over these past few months. I say that advisedly because it has been some 2 months that we have been debating this particular bill.

What I am about to say is not designed to impugn the motives of any Senator who does not happen to agree with my position. However, I think, in order to clear the air, for myself and others, that

it would be worthwhile to make this statement.

I think that the action which has been taken has been a slap at the President of the United States. It has been a condemnation of him when he has fulfilled every commitment he undertook to make. The action of the Senate in rejecting the Griffin amendment, the Miller amendment, and the amendment I proposed, has resulted in characterizing our Asian allies as mercenaries, and in characterizing the free world countries which are trying to defend themselves against Communist attacks as mercenaries. It has not only done that but has also resulted in reducing our ability to assist those nations which are trying to provide a forward defense for the free world, by cutting down on the amount of self-defense armament which they can obtain from the United States.

This is not restricted to Asia. It includes Greece, Turkey, Iran, and other countries which are trying to be of some assistance in the NATO complex against the adventurism of the Soviet Union.

Granted, we made substantial changes in the so-called Church-Cooper amendment. It applies only after July 1, and changes were made to permit continued air interdiction of supply lines in Cambodia, and a provision was included that nothing contained in the section shall be deemed to impugn the constitutional powers of the President as Commander in Chief. Frankly, there is nothing we could do about that, anyhow. Thus, those words, although they sound good in the amendment, do not really mean anything.

The effect of the amendment, however, whether it means anything or does not, will be to put substantial psychological pressure upon the ability of the President of the United States to continue the Vietnamization program and to disengage from Asia at the very time he has accomplished more in that direction than any of the past three Presidents.

I fail to see the reasoning behind it. I am totally unable to comprehend those who have continuously urged that an even stronger amendment than this be adopted at a time when we are trying to disengage from that area of the world.

Mr. President, I do not intend to be a cassandra. I do not intend to be objectionable to those who are supporting the amendment. But I would venture to predict that the action taken by the Senate today will give an added psychological boost to the Soviet Union, to the North Vietnamese, and to the Red Chinese, to continue their adventurism which they have conducted so eloquently in a variety of different areas of the world.

I repeat what I said earlier, that it is the North Vietnamese, not the South Vietnamese who invaded South Vietnam, Cambodia, and Laos. It is the North Vietnamese who have done this. It is not the United States.

It is the North Vietnamese who have invaded Thailand, not the United States and not South Vietnam.

It is the Soviet Union which has rearmed the Arabs creating the explosive involvement in that area.

It is the Red Chinese who are attacking Taiwan and not vice versa.

It is the Red Chinese who have taken over Tibet.

It is the Red Chinese who are now busily trying to take over Burma. It is not the United States. It is not South Vietnam. It is not any of the free world European countries.

It seems impossible to be able to put this over in print where people can understand what the problems are.

I can continue trying, and I shall continue trying but it seems so difficult to convince people, because now they say that the one thing they want to do is to revert this country to a position of total isolationism.

Mr. President, it is ironic to me that isolationism, which is now the great cry of the so-called liberals in this country—was considered, prior to World War II, to be arch conservative.

It is ironic to me that when we look at history, every historian will tell us that one of the main reasons World Wars I and II occurred was that the United States did not provide even the verbal assurance that it would defend its allies and its neighbors.

So here we are now, reverting to exactly the same thing, encouraging more adventurism by the enemy, encouraging more activity by them in the Middle East, Eastern Europe, and in Asia.

I have grave difficulty in understanding why we should now be taking the route of isolationism, which historically has brought us into two World Wars already—and which could easily bring us into another.

I need only cite the case of Korea, one more incident where we found ourselves trapped because the Secretary of State of the United States said that our forward defense line was Japan—and North Korea immediately moved into South Korea.

I hope that that will not happen, so far as this country is concerned, in the next few months or the next year; but I certainly would not be surprised if further incidents of that kind did occur.

I have no assurance that the House will accept this amendment. I have no assurance that it will not. It is my hope that it will not. But, whether it will or not, the word will be passed around the world by all the news media—and properly so—that the Senate has taken action which is a blow to the President of the United States in his effort to disengage us from Vietnam, that the Senate has taken action reverting to a position of isolationism, and that the Senate has taken action which is a downgrading of our free world allies in Europe, in the Middle East, and in the Far East.

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

Mr. DOMINICK. I yield.

Mr. GOLDWATER. The Senator is touching on subjects which I have been writing and discussing for years.

I sat here in a friendly chat this afternoon with my senior colleague from Colorado where we discussed that if we continued on the road we have started, the road to isolationism, within 3 or 4 years I would be willing to draw a circle around the year that world war III would start.

I feel the same thing going on in this country that went on in the 1920's and the 1930's. We have an antimilitary Congress today. We have an antimilitary press today. We have an anti-United States press today. We have a country today that is divided because it is a division which has been planned.

There would be nothing in my mind that I think would be more welcome to our Communist enemies around the world than for this country to build a wall of isolationism around itself once again, as we did in the 1920's and 1930's. And had we been strong and had we been willing to have been strong, World War II would never have started. Nor would Korea. Nor would Vietnam.

We have gotten into these wars because we were willing to be weak. And if the American people, who now profess a strong desire to get out of Vietnam—and we all feel the same way—want to do it at any price, as seems to be the desire of some in this body, I think that things will happen, because a strong America is the only barrier in this world against a world war III.

If we continue to listen to the arguments of those people who are charged with the responsibility of discussing foreign policy, discussing the reneging of our commitments about this world, reducing our military strength to nothing, and having our country become isolated again, I can only say that what the distinguished Senator from Colorado (Mr. DOMINICK) has been talking about is all too true.

We are treading on dangerous ground. And the Vietnam we are in today will be like a Boy Scout camp if the people who are now directing the efforts of this country feel that a theoretical foreign policy should prevail.

This movement is filled with organizations financed by wealthy groups to do nothing but figure out ways to undercut the United States.

We are faced with the spectacle of having to promote a Fourth of July Remember America Day. We have to be almost forced to hang out our flag in this country.

I wonder how much freedom is worth to the average American people. I wonder how much they know about the Constitution.

I get letters from people every day. I get letters from people with college degrees. I do not have one. Yet, they have never read the Constitution. They talk about the tragedy of not being able to control the tactics involved in war.

Nothing in the Constitution gives us the power to downgrade the power of the President as Commander in Chief. The Constitution is perfectly clear on that.

I asked the Senator from Colorado to yield to me because I wanted him to know that I am one Senator who believes in what he is saying.

I hope that the American people open their eyes. I hope that the biased, left-wing press will let the American people know the truth, so that when people like my friend, the Senator from Colorado, speak, they will be heard.

Mr. DOMINICK. Mr. President, I thank my friend, the Senator from Arizona.

I remember so well the statement, "The past is only prologue." I wonder

how many of our compatriots around the country and in this body have looked at the past.

I wonder how many have looked at the root causes of whether or not World War I would have happened if the United States had said, "We are firmly committed to enter into any kind of battle that occurs over there if Western Europe is invaded."

I wonder what would have happened if the United States had had a firm alliance with Great Britain before World War II and had so notified Mr. Hitler when he started marching through Europe.

Almost every historian will tell us that this was one of our great historic mistakes and World War II would never have occurred if we had had that kind of commitment, both moral and legal.

And here we go again. Here we are in an action which will be trumpeted around the world, criticizing the President who is trying to maintain a geographical entity which wants the right of self-determination of forces fighting against an enemy from North Vietnam.

We are building them up and withdrawing our own men in an effort to try to say, "If you will only help yourself now on defense, we will give you help, but we will not give you manpower."

What could be a fairer comment or statement than that?

This is what the Senator from Arizona and I advocated years ago. We said that if we were to get involved in an Asian scrap, we should use our technology. And where is that? It is in the air and sea. It is not in manpower.

The President of the United States is now trying to disengage us from that position. And the Senate of the United States in its infinite wisdom—and I say that with quote marks around it—has just taken the opportunity to slap him in the face once again.

Over and beyond that, I was visited in my office the other day by some people who wanted to know what we were trying to do by way of giving them or selling them equipment so that they could defend themselves. They are from a country that is subject to attack but has neither the capability of buying or making their own defense concept.

Our answer to that is that the Foreign Relations Committee will prevent us from doing it through section 9 and section 10 of the pending bill.

If we continue down this road, Mr. President, I think I can say with considerable conviction that we are embarking on a course which is bound to end up with the United States in a head-on confrontation with our major enemies.

It is for these reasons that I voted against the Church-Cooper amendment and that I intend to vote against the entire Military Sales Act as it is now constituted.

I cannot see the logic in saying that we are internationally minded while we withdraw into a position of isolationism.

This is a conflict in terms which makes no sense to me and which, I believe, will inevitably lead us into very, very serious troubles.

As the Senator from Arizona so ably said, if we continue down this course, we may well find ourselves in a position where we can almost determine with monthly accuracy at what points we will find ourselves involved in a hideous major confrontation.

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

The VICE PRESIDENT. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The VICE PRESIDENT. Without objection, it is so ordered.

ON "STANDING BEHIND" THE PRESIDENT

Mr. FULBRIGHT. Mr. President, among the many criticisms leveled at those of us who criticize the war in Indochina, the most common is that we do not "stand behind" the President.

Americans do not demand that their elected representatives "stand behind" the President in everything. They accept and respect the right of Congressmen and Senators to make independent judgments on such issues as welfare benefits, civil rights legislation, and Supreme Court nominations.

When we had before us two nominations to the Supreme Court I did not hear everyone saying, "Stand behind the President," and the majority of the Senate did not stand behind the President on those two occasions.

On June 25, the House of Representatives voted by 279 to 98 to override the President's veto of the Hill-Burton hospital construction bill and no one, so far as I know, accused the Representatives of irresponsibility or of a lack of patriotism, although they refused, in the most emphatic possible way to stand behind the President.

In matters of this kind the American people approve of their representatives taking independent positions. The American people do not want a rubberstamp Congress composed of submissive yes-men like the legislatures of totalitarian countries. Independence on the part of legislators is recognized as an essential part of the democratic process, and those who display it are commended for standing up to the President.

It is only in matters of foreign policy, especially war, that many Americans expect their legislators to stand behind the President rather than to stand up to him. The President, it is said, has information which no one else has, and we ought, therefore, to support him, however much we may doubt the wisdom of his policies.

My own view is that we do neither the country nor the President a service by supporting his foreign policies without reservation or criticism. With all due respect to the office of the Presidency and to the men who have held that office, we are bound to recognize that a President of the United States is a human being like the rest of us, susceptible like the rest of us to honest errors of judgment. Many Presidents come to the Presidency from Congress or from State office. No one regards a Senator's or a Governor's judgment as infallible—nor should we. Why then should we regard the same man's judgment as beyond question when he is elected President?

We do recognize that Presidents make mistakes in domestic policy; it is only in foreign policy that we tend to treat our President as though his judgment were infallible. We usually do this when there seems to be an emergency but, in doing it, we deny the President the benefits of constructive criticism and our own independent judgment. That is unfortunate because honest, open debate is not a mere luxury; it is a necessity of democratic government.

When we accept the proposition that we should stand unquestioningly behind the President we are, I believe, denying the validity of the democratic system.

The framers of our Constitution understood that very well. That is why they created a government based on the principle of separated powers checked and balanced against each other. That is why they gave Congress certain means of restraining the President and a forum from which to criticize his policies, not just in domestic affairs but in foreign relations as well. In the Federalist No. 75, Alexander Hamilton, who was noted for his devotion to a strong executive, wrote as follows:

> The history of human conduct does not warrant that exalted opinion of human virtue which would make it wise in a nation to commit interests of so delicate and momentous a kind as those which concern its intercourse with the rest of the world to the sole disposal of a magistrate created and circumstanced as would be the President of the United States.

Under normal circumstances few if any Americans would disagree with Hamilton's admonition. It is only in time of war, or of domestic emergency such as the great depression of the 1930's, that the pressure to suspend normal democratic procedure becomes intense. Alexis de Tocqueville, that wisest of observers of American democracy, put it this way:

> War does not always give democratic societies over to military government, but it must invariably and immeasurably increase the powers of civil government; it must almost automatically concentrate the direction of all men and the control of all things in the hands of the government. If that does not lead to despotism by sudden violence, it leads men gently in that direction by their habits. All those who seek to destroy the freedom of the democratic nations must know that war is the surest and shortest means to accomplish this. That is the very first axiom of their science.[1]

The United States has been at war for more than half of the last 30 years. Emergency has become the normal state of our affairs and, just as Tocqueville foresaw, it has placed great strains on our democracy. I do not believe that

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[1] Alexis de Tocqueville, *Democracy in America* (New York: Harper & Row, Publishers, 1966), Vol. II, Ch. 22, P. 625.

democracy can survive in a state of permanent crisis. Eventually, I fear, a nation which is permanently at war must slide into dictatorship.

That fear is my principal reason for opposing the present war in Indochina. It is my principal reason too for believing that as a Senator I have not just the right but the duty to "stand up" to the President rather than "behind" him in a policy which seems more likely to perpetuate the war than to end it. Peaceful, constructive dissent is the only available means through which we can practice democracy now in such a way as to have some hope of preserving it for the future.

Mr. President, I want to make clear again as I have in the past that that is the concern I have about the war. It is not because of my lack of interest in the people of South Vietnam or Cambodia; it is simply and solely my interest in the constituents I represent in the State of Arkansas and, of course, the citizens of the United States.

I have believed for a number of years that this war is destroying our economy and that it is destroying gradually and slowly, as De Tocqueville mentioned, the functioning of a democratic system, and that if we continue indefinitely in waging war we will have to forego a democratic system in this country.

RECESS

Mr. HUGHES. Mr. President, I ask unanimous consent that the Senate stand in recess, subject to the call of the Chair, but in no case later than 3:50 p.m.

The VICE PRESIDENT. Without objection, it is so ordered.

Thereupon, at 3:29 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 3:50 p.m. when called to order by the Presiding Officer (Mr. ALLOTT).

AMENDMENT OF THE FOREIGN MILITARY SALES ACT

The Senate continued with the consideration of the bill (H.R. 15628) to amend the Foreign Military Sales Act.

Mr. THURMOND. Mr. President, my opposition today to passage of the Military Sales Act in its present form rests on the crippling amendments affixed to the bill by the Senate Foreign Relations Committee. While I support military sales and credits to our allies abroad, the bill is replete with unwise amendments. These amendments, including the Cooper-Church amendment, repudiate the Nixon doctrine of providing sufficient military arms to our allies in Southeast Asia and encouraging them to provide for their own defense. A number of Senators have stood on the Senate floor and stated it is not important to the United States who governs in Southeast Asia. Several have gone so far as to state that a Communist government in South Vietnam would promote tranquillity in that area on the grounds the North Vietnamese conquerors would not submit to Red China. Such reasoning is devastating to the hopes of free men everywhere and encourages the forces of oppression, thereby prolonging the murder of innocent people. The removal of U.S. fighting men from Southeast Asia is one thing, but restricting aid to local forces opposing Communist invaders is quite another. This trend in the Senate reveals the frustrations of the Vietnam war and could mark the beginning of a return to a fortress America policy which would doom the struggle of freedom-loving people throughout the world.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the bill.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendments, and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER (Mr. ALLOTT). The hour of 4 o'clock has arrived. The bill (H.R. 15628) having been read the third time, the question is, Shall it pass?

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 Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The result was announced—yeas 75, nays 20, as follows:

[No. 196 Leg.]

YEAS—75

Aiken	Gravel	Moss
Allott	Griffin	Murphy
Anderson	Harris	Muskie
Baker	Hart	Packwood
Bayh	Hartke	Pastore
Bellmon	Hatfield	Pearson
Bennett	Hollings	Pell
Bible	Hruska	Percy
Boggs	Hughes	Prouty
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, Va.	Jordan, N.C.	Ribicoff
Byrd, W. Va.	Kennedy	Saxbe
Cannon	Long	Schweiker
Case	Magnuson	Scott
Church	Mansfield	Smith, Maine
Cooper	Mathias	Smith, Ill.
Cranston	McCarthy	Sparkman
Curtis	McGee	Spong
Dole	McGovern	Stevens
Eagleton	McIntyre	Symington
Fong	Metcalf	Tydings
Fulbright	Miller	Williams, N.J.
Goodell	Mondale	Yarborough
Gore	Montoya	Young, Ohio

NAYS—20

Allen	Fannin	Stennis
Cook	Goldwater	Talmadge
Cotton	Gurney	Thurmond
Dominick	Hansen	Tower
Eastland	Holland	Williams, Del.
Ellender	Jordan, Idaho	Young, N. Dak.
Ervin	McClellan	

NOT VOTING—5

Dodd	Mundt	Russell
Inouye	Nelson	

So the bill (H.R. 15628) was passed.

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

Mr. SCOTT. Mr. President, I move to lay that motion on the table.

Mr. FULBRIGHT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended, so as to read: "An act to amend the Foreign Military Sales Act, and for other purposes."

Mr. FULBRIGHT. Mr. President, I move that the Senate insist upon its amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ALLOTT) appointed Mr. FULBRIGHT, Mr. SPARKMAN, Mr. MANSFIELD, Mr. CHURCH, Mr. AIKEN, Mr. CASE, and Mr. COOPER conferees on the part of the Senate.

Mr. President, I ask unanimous consent that the bill be printed and passed, so that Senators may be informed of the many changes.

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

Mr. FULBRIGHT. Mr. President, I wish to commend the distinguished Senator from Idaho (Mr. CHURCH) for his great patience and wisdom in handling this bill. This bill has been under consideration for nearly 8 weeks—I think it will be 8 weeks on Thursday. This is one of the most arduous and difficult bills we have had this year. The Senator from Idaho has done an outstanding job and has handled it with great tact and wisdom and has been most conscientious in his attendance. I believe the effect of his management and the cooperation of the Senator from Kentucky (Mr. COOPER) has been very beneficial to the work of the Senate. I commend both of them.

Mr. MANSFIELD. Mr. President, having spent over 7 weeks on this one piece of legislation, it is impossible to single out any particular Senator for commendation; the Senate as a whole has participated in a truly historic event. The issue of the separate responsibilities of the Congress and the executive branch have never been more fully explored; the final action on this bill marks a significant breakthrough in the reassertion of the responsibilities of the Senate in the essential decisions affecting the foreign policy of this country as well as the issue of war and peace.

The Senator from Idaho (Mr. CHURCH) who managed this bill along with the Senator from Kentucky (Mr. COOPER) must however be mentioned. The long hours spent in shepherding this bill to passage demonstrated a dedication to duty and principle that sets a noble example to every public official.

To the Senate as a whole I wish to express my appreciation, gratitude and pride for the level of the debate during these weeks and for the cooperation afforded the leadership while these issues were before us.

MEDICAL FACILITIES CONSTRUCTION AND MODERNIZATION AMENDMENTS OF 1970—VETO MESSAGE

The PRESIDING OFFICER (Mr. ALLOTT). Under the previous unanimous-consent agreement, the Chair now lays before the Senate a veto message, which will be reported.

The legislative clerk read as follows:

The House of Representatives having proceeded to reconsider the bill (H.R. 11102) entitled "An Act to amend the Public Health Service Act to revise, extend, and improve the program established by title VI of such Act, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of representatives agreeing to pass the same.

The PRESIDING OFFICER (Mr. ALLOTT). The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Under the previous unanimous-consent agreement to vote at 5:30, the time is to be controlled respectively by the majority leader and the minority leader. Who yields time?

Mr. SCOTT. Mr. President, I yield myself 2 minutes for the purpose of addressing an inquiry to the distinguished majority leader.

The PRESIDING OFFICER. May we have order in the Senate, please?

The Senator from Pennsylvania may proceed.

Mr. SCOTT. Mr. President, following the consideration of the pending business, there will be a continuation of the consideration of the postal reform bill. I understand that there is, as far as I can find out, a disposition to accelerate action on the matter pending before us.

I would like to suggest to the distinguished majority leader that perhaps we could have an agreement on an earlier vote.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, one of the reasons that the leadership asked the Senators to stay after the vote was taken was to raise that possibility.

I have discussed the matter not only with the distinguished minority leader but also with the committee chairman, the Senator from Texas (Mr. YARBOROUGH), and the ranking minority member of the committee, the Senator from New York (Mr. JAVITS).

They have indicated that it would be fair to say that a 30-minute limitation, with the time to be divided between them, would be satisfactory, and that any Senator would be given recognition regardless of his point of view, the vote to occur at the end of the 30 minutes.

Mr. President, just on the chance that that might be acceptable, I make that unanimous-consent request at this time.

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

Mr. MANSFIELD. I yield.

Mr. JAVITS. Mr. President, I wish to state to the Senator that I will support the overriding of the veto. But I will yield time to any Member of the minority or to any Senator who desires time to oppose the override.

Mr. MANSFIELD. Mr. President, I am sure the manager of the bill will do the same.

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

Mr. MANSFIELD. I yield.

Mr. YARBOROUGH. Mr. President, since we discussed this matter originally, other members of the committee have indicated they want to speak. I suggest we have 30 minutes to a side rather than 15 minutes.

Mr. MANSFIELD. I think we had better let it go as it is. That would take it up to 5:30 p.m. anyway. I withdraw my request.

Mr. President, I ask for the yeas and nays on the pending business.

The PRESIDING OFFICER (Mr. ALLOTT). The Chair is happy to inform the Senate that under the Constitution a yea-and-nay vote is automatic. The request for the yeas and nays is not necessary.

Mr. MANSFIELD. I thank the Presiding Officer.

EMERGENCY HOME FINANCE ACT OF 1970

Mr. SPARKMAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 3685.

The PRESIDING OFFICER (Mr. ALLOTT laid before the Senate the amendment of the House of Representatives to the bill (S. 3685) to increase the availability of mortgage credit for the financing of urgently needed housing, and for other purposes, which was to strike out all after the enacting clause, and insert:

That this Act may be cited as the "Emergency Home Finance Act of 1970".

TITLE I—REDUCTION OF INTEREST CHARGES FOR MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 101. (a) There is authorized to be appropriated not to exceed $250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district.

TITLE II—AUTHORITY FOR THE FEDERAL NATIONAL MORTGAGE ASSOCIATION TO PROVIDE A SECONDARY MARKET FOR CONVENTIONAL MORTGAGES

SEC. 201. (a) Section 302(b) of the National Housing Act is amended—

(1) by inserting "(1)" immediately following "(b)"; and

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

"(2) For the purposes set forth in section 301(a), and with the approval of the Secretary of Housing and Urban Development, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as 'conventional mortgages'). No such purchase of a conventional mortgage shall be made if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the corporation. The corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the corporation. The corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act.

"(3) The corporation may not make any public offering of securities to finance its secondary market operations in conventional mortgages at any time that the Secretary of Housing and Urban Development determines that such an offering would unduly inhibit the financing by the Government National Mortgage Association of low and moderate income housing in implementation of its special assistance functions."

(b) Section 5202 of the Revised Statutes (12 U.S.C. 82) is amended by adding at the end thereof the following:

"Eleventh. Liabilities incurred in connection with sales of mortgages, or participations therein, to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation.".

TITLE III—FEDERAL HOME LOAN MORTGAGE CORPORATION

SHORT TITLE

SEC. 301. This title may be cited as the "Federal Home Loan Mortgage Corporation Act".

DEFINITIONS

SEC. 302. As used in this title—

(a) The term "Board of Directors" means the Board of Directors of the Corporation.

(b) The term "Corporation" means the Federal Home Loan Mortgage Corporation created by this title.

(c) The term "law" includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term "mortgage" includes such classes of liens as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term "organization" means any corporation, partnership, association, business trust, or business entity.

(f) The term "prescribe" means to prescribe by regulations or otherwise.

(g) The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing.

(h) The term "residential mortgage" means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a first lien on such real estate, and otherwise, as may be prescribed by the Corporation.

(i) The term "conventional mortgage" means a mortgage other than a mortgage as to which the Corporation has the benefit of any guaranty, insurance or other obligation by the United States or a State or an agency or instrumentality of either.

(j) The term "security" has the meaning ascribed to it by section 2 of the Securities Act of 1933.

(k) The term "State", whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

ESTABLISHMENT OF THE CORPORATION

SEC. 303. (a) There is created the Federal Home Loan Mortgage Corporation, which shall be a body corporate and shall be under the direction of a Board of Directors composed of the members of the Federal Home Loan Bank Board, who shall serve as such without additional compensation. The Chairman of the Federal Home Loan Bank Board shall be the Chairman of the Board of Directors. The principal office of the Corporation shall be in the District of Columbia or at such other place as the Corporation may from time to time prescribe. The Corporation shall be a member of each Federal home loan bank and, except as otherwise provided by the Federal Home Loan Bank Board, shall have all the benefits, powers, and privileges, and in the exercise thereof shall be subject to all liabilities, conditions, and limitations (except those relating to Federal home loan bank stock and subscriptions thereto and those under provisions of the Federal Home Loan Bank Act preceding section 9) which are provided by the terms of such Act or other Federal statute for members of any such bank.

(b) The Corporation shall have power (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this title; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; (8) to acquire, take, hold, and own, and to deal with and dispose of any property; and (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence. Nothing in this title or any other law shall be construed to prevent the appointment, employment, and provision for compensation and benefits, as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or corporate or other instrumentality of the Government, including any Federal home loan bank or member thereof. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefor, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

(c) Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depositary of public money, may be designated by the Corporation as a depositary or custodian or as a fiscal or other agent of the Corporation, and is hereby authorized to act as such depositary, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a dopositary of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depositary or agent as may be required of it.

(d) The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by the United States, by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The provisions of this subsection shall be applicable without regard to any other law, including without limitation on the generality of the foregoing section 3301 of the Internal Revenue Code of 1954, except laws hereafter enacted by Congress expressly in limitation of this subsection.

(e) All notes, bonds, debentures or other obligations of the Corporation, or other securities (including stock) of the Corporation, and the interest, dividends, or other income therefrom, shall be exempt from all taxation (except estate, inheritance, and gift taxes) now or hereafter imposed by any territory, dependency, or possession of the United States, or by the Commonwealth of Puerto Rico, the District of Columbia, or any States, county, municipality, or local taxing authority. The foregoing exemption from taxation shall include exemption from taxation measured by such obligations or securities or by such interest, dividends, or other income, and from inclusion of such obligations or securities, or such taxation.

(f) Notwithstanding section 1349 of title 28 of the United States Code or any other provision of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and (3) any civil or other action, case, or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal Office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

CAPITAL STOCK

SEC. 304 (a) The capital stock of the Corporation shall consist of nonvoting common stock which shall be issued only to Federal home loan banks and shall have such par value and such other characteristics as the Corporation prescribes. Stock of the Corporation shall be evidenced in such manner and shall be transferable only to such extent, to such transferees, and in such manner, as the Corporation prescribes.

(b) The Federal home loan banks shall from time to time subscribe, at such price not less than par as the Corporation shall from time to time fix, for such amounts of common stock as the Corporation prescribes, and such banks shall pay therefor at such time or times and in such amount or amounts as may from time to time be fixed by call of the Corporation. The amount of the payments for which such banks may be obligated under such subscriptions shall not exceed a cumulative total of $100,000,000.

(c) Subscriptions of the respective Federal home loan banks to such stock shall be allocated by the Corporation.

(d) The Corporation may retire at any time all or any part of the stock of the Corporation, or may call for retirement all or any part of the stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any stock shall be made, and no stock shall be retired without call, if immediately after such action, the total of the stock not called for retirement and of the reserves and surplus of the Corporation would be less than $100,000,000. The retirement of stock shall be at the par value thereof, or at the price at which such stock was issued if such price is greater than par value. No declaration of any dividend on stock of the Corporation shall be effective with respect to stock which at the time of such declaration is the subject of an out-

standing retirement call the effective date of which has arrived.

MORTGAGE OPERATIONS

SEC. 305. (a)(1) The Corporation is authorized to purchase, and make commitments to purchase, residential mortgages from any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any member of a Federal home loan bank, or any other financial institution the deposits or accounts of which are insured by an agency of the United States, and to hold and deal with, and sell or otherwise dispose of, pursuant to commitments or otherwise, any such mortgage or interest therein. The operations of the Corporation under this section shall be confined so far as practicable to residential mortgages which are deemed by the corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional mortgage investors.

(2) No conventional mortgage shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 75 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 75 per centum is guaranteed or insured by a qualified private insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchase does not exceed 10 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation. The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it which are comparable to the limitations which would be applicable if the mortgage were insured by the Secretary of Housing and Urban Development under section 203 (b) or 207 of the National Housing Act.

(3) The sale or other disposition by the Corporation of a mortgage under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the Corporation may prescribe.

(b) Notwithstanding any other law, authority to enter into and to perform and carry out any transaction or matter referred to in this section is conferred on any Federal home loan bank, the Federal Savings and Loan Insurance Corporation, any Federal savings and loan association, any Federal home loan bank member, and any other financial institution the deposits or accounts of which are insured by an agency of the United States to the extent that Congress has the power to confer such authority.

OBLIGATIONS AND SECURITIES

SEC. 306. (a) The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds, or other obligations, or other securities, including without limitation mortgage-backed securities guaranteed by the Government National Mortgage Association in the manner provided in section 306(g) of the National Housing Act. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

(b) The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(c) The Federal home loan banks shall, to such extent as the Board of Directors may prescribe, guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any security (which term as used in this sentence shall not include the capital stock referred to in section 304 of this title).

(d) The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

(e) The Corporation may not make any public offering of securities to finance its secondary market operations in conventional mortgages at any time that the Secretary of Housing and Urban Development determines that such an offering would unduly inhibit the financing by the Government National Mortgage Association of low- and moderate-income housing in implementation of its special assistance functions.

MISCELLANEOUS PROVISIONS

SEC. 307. (a) All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition. The Corporation shall be entitled to all immunities and priorities, including without limitation on the generality of the foregoing all immunities and priorities under any such law or action, to which it would be entitled if it were the United States or it were an unincorporated agency of the United States.

(b) The first two sentences of paragraph (6) of subsection (c) of section 18 of the Federal Home Loan Bank Act are amended to read as follows: "Notwithstanding any other provision of law, the financial transactions of said corporation shall be audited by the General Accounting Office in accordance with title II of the Government Corporation Control Act, and banking and checking accounts of said Corporation and said board shall be maintained in accordance with section 302 of that Act. Except as now or hereafter provided by this section, no provision of law other than this act or title IV of the National Housing Act shall be applicable to obligations, expenditures, lending, or payments of said board or corporation, or, to such extent as said board may provide, to personnel or positions thereof, but the activities of the Board and of the Corporation shall be the subject of an annual review by Congress."

(c) The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the respective corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the General Accounting Office for the full cost of any such audit as billed therefor by the Comptroller General.

PENAL PROVISIONS

SEC. 308. (a) Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term "Federal Home Loan Mortgage Corporation", or any combination of words including the words "Federal", and "Home Loan", and "Mortgage", as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on the date of the enactment of this Act. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than $10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than $5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(b) The provisions of sections 215, 607, 658, 1011, and 1014 of title 18 of the United States Code are extended to apply to and with respect to the Corporation, and for the purposes of such section 658 the term "any property mortgaged or pledged," as used therein, shall without limitation on its generality include any property subject to mortgage, pledge, or lien acquired by the Corporation by assignment or otherwise.

(c) The term "bank examiner or assistant examiner", as used in section 655 of such title 18, shall include any examiner or assistant examiner who is an officer or employee of the Corporation and any person who makes or participates in the making of any examination of or for the Corporation.

(d) The term "bank," as used in subsection (f) of section 2113 of such title 18, shall be deemed to include the Corporation, and any building used in whole or in part by the Corporation shall be deemed to be used in whole or in part as a bank, within the meaning of such section 2113.

(e) The terms "agency" and "agencies" shall be deemed to include the Corporation wherever used with reference to an agency or agencies of the United States in sections 201, 202, 203, 205, 207, 208, 209, 286, 287, 371, 506, 595, 602, 641, 654, 701, 872, 1001, 1002, 1016, 1017, 1361, 1505, and 2073 of such title 18. Any officer or employee of the Corporation shall be deemed to be a person mentioned in section 602 of such title 18 within the meaning of sections 603 and 606 of such title.

(f) The terms "obligation or other security" and "obligations or other securities," wherever used (with or without the words "of the United States") in sections 471 to 476, both inclusive, and section 492 of such title 18, are extended to include any obligation or other security of or issued by the Corporation. Any reference in sections 474, 494, 495, and 642 of such title 18 to the United States, except in a territorial sense, or to the Secretary of the Treasury is hereby extended to include the Corporation. Section 477 of such title 18 is extended to apply with respect to section 476 of such title as extended by the first sentence of this subsection (f), and for this purpose the term "United States" as used in such section 476 shall include the Corporation.

TERRITORIAL APPLICABILITY

SEC. 309. Notwithstanding any other law, this title shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

CONSTRUCTION AND SEPARABILITY

SEC. 10. Except as otherwise provided in this title, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this title, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this title shall be applicable and effective, without regard to any other law. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this title, or the application thereof to any person or circumstances, is held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE IV—GOVERNMENT NATIONAL MORTGAGE ASSOCIATION SPECIAL ASSISTANCE FUNDS

SEC. 401. (a) Section 305(c) of the National Housing Act is amended by striking out "by $500,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969".

(b) Section 305(g) of such Act is amended by striking out everything in the first sentence after "exceed" and inserting in lieu thereof "the dollar limitation on maximum principal obligation that would be applicable to such mortgage if insured under section 235(i) of this Act."

TITLE VI—FLEXIBLE INTEREST RATE AUTHORITY

SEC. 601. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, is amended by striking out "October 1, 1970" and inserting in lieu thereof "October 1, 1971".

TITLE VII—INVESTMENT OF COMMERCIAL BANK RESERVES

§ 701. Amendment of section 19(g), Federal Reserve Act

Section 19(g) of the Federal Reserve Act (12 U.S.C. 465) is amended by inserting "(1)" immediately after "(g)" and by adding at the end thereof the following new paragraph:

"(2) In the determination of the amount of any reserve balance required under this section for any type or types of deposits specified by the Board for the purposes of this paragraph, there may be deducted, in whole or in such part as the Board may prescribe, any investments in obligations specified by the Board issued by Federal agencies for the purpose of directly or indirectly financing the construction or acquisition of residential real property."

TITLE VIII—MISCELLANEOUS

§ 801. Settlement costs in the financing of Federal Housing Administration and Veterans' Administration assisted housing

(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act or under chapter 37, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

(1) be established after consultation between the Secretary and the Admistrator;

(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37, title 38, United States Code; and

(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.

§ 802. Emergency relief from interest rate conflict between Federal law and State law

Notwithstanding any other law, from the date of enactment of this title until July 1, 1972, loans to local public agencies under title I of the Housing Act of 1949 and to local public housing agencies under the United States Housing Act of 1937 may, when determined by the Secretary of Housing and Urban Development to be necessary because of interest rate limitations of State law, bear interest at a rate less than the applicable going Federal rate but not less than 6 per centum per annum.

§ 803. Treasury borrowing authority for New Communities Program

Section 407(a) of the Housing and Urban Development Act of 1968 is amended by adding at the end thereof the following: "The Secretary may issue obligations to the Secretary of the Treasury in an amount outstanding at any one time sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by this title. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations of the Secretary issued under this subsection, and for such purpose the Secretary of Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under such Act are extended to include purchases of the Secretary's obligations hereunder."

§ 804. Security authorized for public funds deposits

Section 5(b)(2) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(b)(2)) is amended by inserting before the period at the end thereof the following: ", and may give security for public funds (as defined by the Board) deposited in savings accounts (including certificates of deposit)".

§ 805. Savings and loan holding company assistance for low and middle income housing

Section 408(d)(4) of the National Housing Act (12 U.S.C. 1730a(d)(4)) is amended by striking the semicolon in the last sentence and inserting in lieu thereof ", however, upon prior written approval of the Corporation the foregoing prohibitions may be waived to the extent such transactions make sums available to be used to assist in the provision of housing for low and middle income families;".

§ 806. Extension of time for continuance of certain activities

Section 408(c)(2) of the National Housing Act (12 U.S.C. 1730a(c)(2)) is amended by striking "two" and inserting in lieu thereof "five".

§ 807. State-wide lending for Federal Savings and Loan Associations

Section 5(c) of the Home Owners' Loan Act of 1933 is amended (1) by adding after "their home office" in the first sentence the following: "or within the State in which such home office is located"; and (2) by substituting the word "section" for the word "proviso" used in the last clause of the second proviso.

§ 808. Federal Savings and Loan Insurance Corporation reserve

Section 403(b) of the National Housing Act is amended by changing "twenty" in the third sentence to read "thirty".

§ 809. Savings and loan associations as pension trustees

Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) is amended by inserting before the next to the last paragraph a new paragraph as follows:

"Any such association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1954, if the funds of such trust are invested only in savings accounts or deposits in such association or in obligations or securities issued by such association. All funds held in such fiduciary capacity by any such association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under the authority of this paragraph."

SEC. 810. Section 401(f)(2) of the Housing Act of 1950 is amended by striking out all that follows "increased by" and inserting in lieu thereof "$6,300,000 on July 1, 1970".

SEC. 811. Title IX of the Housing and Urban Development Act of 1968 is amended by adding after section 911 the following new section:

"STATE REGULATION

"SEC. 912. Nothing contained in this title shall preclude a State or other local jurisdiction from imposing, in accordance with the laws of such State or other local jurisdiction, any valid nondiscriminatory tax, obligation, or regulation on the partnership as a taxable and or legal entity, but no limited partner of the partnership not otherwise subject to taxation or regulation by or judicial process of a State or other local jurisdiction shall be subject to taxation or regulation by or subject to or denied access to judicial process of such State or other local jurisdiction, or be so subject or denied access to any greater extent, because of activities of the corporation or partnership within such State or other local jurisdiction."

Mr. SPARKMAN. Mr. President, I move that the Senate disagree to the amendment of the House of Representatives on S. 3685 and ask for a conference with the House on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. SPARKMAN, Mr. PROXMIRE, Mr. WILLIAMS of New Jersey, Mr. BENNETT, and Mr. TOWER conferees on the part of the Senate.

MEDICAL FACILITIES CONSTRUCTION AND MODERNIZATION AMENDMENTS OF 1970—VETO MESSAGE

The Senate resumed the reconsideration of H.R. 11102.

PRIVILEGE OF THE FLOOR

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that Mr. John Forsythe, general counsel for the Committee on Labor and Public Welfare, and Mr. Harris, staff director, be permitted to be in the Chamber during reconsideration of the bill.

The PRESIDING OFFICER (Mr. SCHWEIKER). Without objection, it is so ordered.

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

Mr. YARBOROUGH. I yield.

Mr. KENNEDY. Mr. President, I ask unanimous consent that my aide, Mr. Corey Parker, be admitted to the Chamber during this discussion.

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

Mr. YARBOROUGH. Mr. President, the choice before the Senate today is whether or not we should override the President's veto of the hospital and medical facilities bill, a bill that will directly affect the health of the American people. I think it might be well to review the history of the bill.

As the bill was passed by the Senate it was a 5-year bill authorizing the expenditure by the Federal Government of $6 billion, including grants, direct loans, and guaranteed loans by the Federal Government, all for the construction and modernization of hospitals, out-patient clinics, emergency rooms, and other health facilities.

Mr. President, there is great need for this legislation. The health officers of the 50 States have certified to the Federal Government that they need $6 billion in money this year to build new hospitals and $10.5 billion to remodel, enlarge, extend, or renovate old hospitals. Many of the best hospitals in this country, in some of the largest cities, have become obsolete.

As the bill was passed by the Senate it was a 5-year bill, which authorized $6 billion in direct loans, grants, and guaranteed loans. The House passed a 3-year bill. We then went into a lengthy conference with the House. That conference resulted in a bill that called for concessions on both sides. The conferees agreed on a 3-year bill that authorized the expenditure of $2.760 billion. While that amount was slightly less than one-half the Senate bill, it is still the biggest and best hospital construction bill to date.

So great was the case made for the conference bill that it passed the Senate by unanimous vote and it was passed by the House by unanimous vote.

Mr. President, you can imagine the dismay in this country subsequent to the President's veto, which was apparently based on advice he received from staff in the White House.

Mr. President, we know the result in the House of the vote on the veto. Legislative bodies are reluctant to override a Presidential veto. However, the health needs of the country are so great the other body overrode it with an overwhelming vote.

I regret that the President did not have the advice of distinguished Senators on the other side of the aisle who worked on this legislation when he made the veto decision. It is a bipartisan bill. Actually, in the conferences with the House, it was the Senate against the House. There was no division between Democratic and Republican Members.

I have already noted the fact that the 50 State health authorities have recommended that $15.5 billion be spent now for health facilities.

In my own State, the average cost of a room in a hospital today is $60. The national average is over $65. If a patient is in a room 1 day, in some States and in some cities the cost has already reached $100 a day.

Outpatient clinics supported by this bill would relieve some of the pressures on hospitals. This is the best bill we have passed in this field, because it goes into that facet of the problem. It authorizes increased appropriations for outpatient clinics.

For the first time we placed in the bill a provision for money to build emergency hospital rooms. I refer to facilities built to take care of traumatic injuries caused by automobile accidents, home accidents, and so forth.

In this country 50,000 persons are killed each year in automobile accidents, and over 2 million injured. There are 2.2 million disabled in accidents, and 45,000 are killed in industrial accidents. Millions more are killed in sporting and recreation accidents.

Money is provided in the bill for hospitals to build emergency room facilities right where the ambulance brings the injured people into the hospital. If that is done, it will save the lives of many people, whether they are injured from accidents on the highway, in industrial accidents, or accidents in the home or during recreation.

This is a compromise bill. It provides only half of what the Health Subcommittee found was necessary, and what the full Senate Committee on Labor and Public Welfare found was necessary, and what the Senate as a whole found was necessary when it passed the $6 billion, 5-year bill and sent it to the House.

So this bill itself is a reduced bill, cut down by the long conferences with the House. I am proud to say, on behalf of the Senate conferees on both sides, that they stayed there faithfully, day after day, and did not surrender to the House, but stayed there until we got a compromise bill.

The 50 health planning authorities from the 50 States have certified and documented the case to the Federal Government, to the Department of Health, Education, and Welfare, that there is a need for 85,000 acute care hospital beds, 165,000 long-term beds, 900 public health centers, 900 more diagnostic centers, and 400 rehabilitation facilities.

We are in a crisis in health care in this country.

After 11 years on the Health Subcommittee and the Education Subcommittee, I personally think we have the best education system in the whole world. No other nation tries to educate, at one time, in the colleges of the country, one person out of every 25 in the whole Nation, with approximately 8 million students out of our little over 200 million population. We no doubt have the best educational system in the world, offering more young people the best educational opportunities in the world.

Unfortunately, the same is not true of our health care.

A baby boy in this country is destined to live not as long as another baby boy in 15 other nations, and 13 other nations have a better record of infant mortality. In some nations in the western world the infant mortality rate is only half what ours is.

There is one provision in the bill, and it apparently had much to do with the President's veto message, which has to do with the availability of certain appropriations. We require that the appropriations be made available and that the Bureau of the Budget not freeze the funds and say the money cannot be spent, and that the funds appropriated be spent.

Section 601, in the vetoed bill, would prevent the President from refusing to spend appropriations funds for hospital construction, for regional medical facilities, for heart disease and cancer centers, for personnel for health centers, for nurse training and health research training, for national health, for biomedical, for community health centers, for rehabilitation centers, for a national center for health services and research. As a matter of fact, section 601 includes the Public Health Service Act and the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, as amended.

Mr. President, other Senators desire to be heard, and I shall not detail those seriatim, but the distinguished Presiding Officer is a member of the full committee and is personally familiar with the matter.

I see other members of the committee present on the floor—the distinguished Senator from Massachusetts (Mr. KENNEDY), the distinguished Senator from

California (Mr. MURPHY), the distinguished Senator from Colorado (Mr. DOMINICK), who is the ranking Republican member on the Health Subcommittee.

We are the richest Nation the world has ever seen, and we ought to recognize that health care is important to the strength and the resources of the people.

I wish to mention one point specifically, though, before yielding the floor, and that is biomedical research. Those are the programs by which our medical schools are principally supported.

We have slightly over 100 medical schools in the United States. More than 60 percent of all the money spent to operate the medical schools in the United States comes from the Federal Government. When we cut down programs for biomedical research, we jeopardize the medical schools of this country. The cost of biomedical research has been going up about 15 percent annually.

Many medical schools are on the brink of financial chaos, so much so that our committee has included a $100 million disaster relief fund in a forthcoming health bill to try to save those medical schools.

The fact that, because of the war and for other reasons, our sense of priorities has not yet recognized that aid for medical schools are a prime priority of this Government. Some of our medical schools are on the brink of disaster. Unless something is done about supporting medical schools, Mr. President, many will be forced to close. One old and prestigious school has gone under, and another is failing.

Mr. President, the time is limited, and other Senators wish to be heard. I have closing remarks which I shall make as time permits, but otherwise I am prepared to yield time to other Senators at this point.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 23 minutes out of 35 minutes allocated.

Mr. MURPHY. Mr. President, I wish to say, as a member of the committee, that it has been a great pleasure and a joy to work with the distinguished chairman, the Senator from Texas, who has done a good job in putting this bill together. I concur with his remarks regarding the need, regarding the emergency which exists, and regarding the conditions of the medical schools; and I would like to say that I could not find words to express my admiration for the excellent job done by the distinguished Senator as the chairman of this committee. It has been a great pleasure to serve with him on the committee. He deserves great credit for this bill, which is an excellent, outstanding bill, and contains all the fine elements that he has so eloquently described here today.

Mr. DOMINICK. Mr. President, will the Senator yield me about 5 minutes?

Mr. MURPHY. I am pleased to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I listened with great interest to the comments made by the chairman of our committee, on which I serve as the ranking Republican on the Health Subcommittee. The Senator from California (Mr. MURPHY), myself, the Senator from New York, and many others labored long and valiantly in conference to try to get through some of the provisions which had passed out of our committee and on the floor. There were a number of these provisions, which I think I should refer to, which are pretty important. One is our effort to try to increase the authorization for outpatient facilities and extended care facilities, or long term care facilities. We finally won this battle with the House of Representatives, but it was only after a long and rather tough struggle. Many people on the side of the House of Representatives wanted to do nothing but concentrate on construction of hospitals. We finally persuaded them that in addition to construction, we also should try to provide facilities by which we could get patients out of the high-cost hospitals and into long term or extended care facilities. We won that battle, by and large.

During the process of our discussion, section 601, which is the main basis for the veto, came up very strongly. We had provided—unknown, I might say, to a great number of us, as to the scope of the provision—a requirement that all money that we appropriated be spent in about seven different programs which related to medical care. We had a very tough battle with the House of Representatives immediately facing us. This was one of the things that the chairman on the House committee said they simply were not going to be able to accept.

It turned out that it was my suggestion that was eventually adopted—a suggestion that we limit this requirement for spending appropriation money to two major programs, the Public Health Service Act and the Community Mental Health Centers and Mental Retardation Act. These two items were held in as the areas where we thought the need was the greatest. It was probably the only method by which we could have gotten the House to agree to any bill at all; and by that time we had, I would think, encompassed at least five meetings, maybe six, all very extended and very detailed, and sometimes quite heated discussions.

What is the effect of section 601, upon which the President has based a major portion of his veto message? Obviously, it infringes on the Executive's ability to determine how money is going to be spent, when he is under a restriction on the total amount of expenditures he can make. But I think we should keep in mind, Mr. President, that this is an authorization bill. It is not an appropriation bill. Therefore, with both this warning from the President, by way of his veto—which undoubtedly will be overridden—and the provision which we have in the bill, which has now had so much public attention, it is my guess that the Appropriations Committee will be very, very careful as to how much money it appropriates. I do not believe that the Appropriations Committee as any desire to further confuse the issue by appropriating so much that the President cannot possibly swallow it. I do not think that they want to confuse the issue by inviting another veto.

For those reasons, it seems to me that in an authorization bill of this kind, what we are really doing under section 601 is putting up a warning flag for the Appropriations Committee—a warning flag as a result of which they will take a very careful look at what we are authorizing them to appropriate.

The other point that I think ought to be made, which bears on the President's veto message, was his objection to the excess amount over his budget for hospital construction.

He points out that he has laid very great stress on the need for hospital modernization. This is very true.

The Senate bill pointed out again and again the need for hospital modernization, but it also pointed out that in some States at least we were going to need additional hospital beds. The question of whether or not a State is going to use money for construction or for modernization is up to the State committee. It is not up to the U.S. Senate or to the House, under the bill as approved by both bodies. Consequently, that body itself can best determine what its own needs are within its own State.

Furthermore, under the modernization program, you have a much more flexible determination as to the amount of money that will be allocated to a State; and once those amounts of money are allocated, there is flexibility within the bill so that the construction money can all be used for modernization if the State body so desires. This, I think, alleviates a great deal of the concern expressed in the President's message, even though there is no doubt that the authorization in totals is more than the budget had called for.

Putting these two things together, then, and looking at section 601 as a red flag to the Appropriations Committee, and recognizing that whatever money for hospital construction is contained in this bill can also be used for modernization which the President is in favor of, I do not really feel that we have an item which is going to prove a tremendous hurdle for either the Executive or for Congress.

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

Mr. MURPHY. I yield 1 additional minute to the Senator.

Mr. DOMINICK. For those reasons, it is my feeling that the urgent need to establish within the States the overall trend as to where Hill-Burton is going to go this year is so important that I will vote for the bill, which we have already passed twice in the Senate.

I thank the Senator from California.

Mr. MURPHY. I thank the Senator from Colorado.

Mr. DOLE. Mr. President, will the Senator yield me 5 minutes?

Mr. MURPHY. I yield 5 minutes to the distinguished Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mr. DOLE. Mr. President, I take this time to pose a question to the chairman, the Senator from Texas.

I have been absent from the Chamber, but want to ask the one question that

disturbes me—it may have been covered by the Senator from Texas in his opening statement—and it is whether or not Congress can require any President to expend certain funds. Has that been covered?

Mr. YARBOROUGH. It was done with education bills. There are precedents for that. We did not specifically discuss that constitutional question, because that has been debated on the floor in the past. That is in the present education bill.

Mr. DOLE. I recall that in the early sixties Congress appropriated money—I believe the Senator from Arizona can refresh my memory—was it for the B–52s?

Mr. GOLDWATER. We appropriated $900 million for the B–52 program, and Secretary McNamara refused to spend it.

Mr. DOLE. I am wondering about the general question. Does Congress have the right to say to any President, "You must spend x number of dollars, but you have no flexibility, no discretion"?

Mr. YARBOROUGH. The Constitution, in my opinion, gives Congress the exclusive power to levy and then to appropriate the money.

Mr. DOLE. We have the right to appropriate, but does that mean that the President must spend the amount appropriated?

Mr. YARBOROUGH. I think that Congress has to reassert its constitutional power. This bill does not provide that the administration spend authorized money but only appropriated money. After we finish this authorization, as the able Senator from Colorado has pointed out, we have a hard fight in the Appropriations Committee to get the needed moneys. I think the President should spend it. I do not mean that he should waste it. I do not mean it should be wasteful.

I know that in my own State, hundreds of millions are awaiting approved hospital plans. We know in this case the great needs there, and it has already been passed upon by the proper authorities, and it is waiting. Hospitals cannot be built.

It is a constitutional question, and people will differ on what the Constitution means.

Mr. DOLE. It occurs to me that we really deprive any President from any flexibility with reference to money which has been appropriated. I read from the President's message:

> One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent. In addition to restricting flexibility in management of Federal expenditures, this provision would interfere with my ability to comply with the limitation on total 1971 spending that has already passed the House of Representatives and has been reported by the Senate Appropriations Committee.

I think this is the question that disturbs some of us: Are we denying to any President that flexibility in the event the money is authorized and appropriated?

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

Mr. DOLE. I yield.

Mr. JAVITS. Really, this must be juxtaposed in two ways—one, in respect to the matter referred to by Senator GOLDWATER, that the executive can refrain from spending, and two, there is no way you have of making the executive spend. But I think that the implication of title VI is more in the direction of an expenditure ceiling. It will be recalled that we have made exceptions to expenditure ceilings; and if I were the President's counsel, I would interpret this provision, section 601 of H.R. 11102, to mean an advance exemption from the expenditure ceiling.

What Congress is really saying to the President is, "No matter what expenditure ceiling we give you, this is one item which we don't expect you to cut by using the expenditure ceiling as a justification, but indeed, you may increase the expenditure ceiling by what you would not otherwise spend if you put this under the expenditure ceiling."

This is really the only effect that I can see.

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

Mr. JAVITS. Will the Senator yield me 2 additional minutes?

Mr. DOLE. I yield.

Mr. JAVITS. The thing that troubles me and other Senators about this provision is that we will now have to be super careful, in honesty with ourselves, on the appropriation measures which will be implemented by this bill, knowing that these programs are ones we have really exempted from expenditure ceilings, as we have done on other occasions with education. That is the real implication.

Mr. DOLE. I appreciate the response from the Senator from New York and the Senator from Texas.

Mr. YARBOROUGH. I concur in the statement and explanation by the distinguished Senator from New York. I think that the President's veto speaks for itself. If we vote to override the veto, we vote to enforce the section 601 which he complains about.

Mr. DOMINICK. If the Senator from Kansas will yield, I should like to point out that I have just finished saying, in my own remarks, that this constitutes a red flag to the Appropriations Committee to be very careful about what they are going to appropriate.

Second, it does not require that the President spend the money for this purpose, but it prevents him from taking the money and transferring it to another program.

Mr. DOLE. I thank the Senator from Colorado.

Mr. YARBOROUGH. This question was raised in the Appropriations Committee.

Mr. JAVITS. I yield 3 minutes to the Senator from Washington (Mr. MAGNUSON).

The PRESIDING OFFICER. The Senator from Washington is recognized for 3 minutes.

Mr. MAGNUSON. Mr. President, the truth of the matter is, I will not argue the merits of this back and forth, but the administration is trying to change the Hill-Burton program and make it into something that was not intended by the original Hill-Burton Act in 1947.

In 1969, for construction grants—these are direct grants to the various States and local agencies—$267.2 million was appropriated.

In 1970, after the 2-percent reduction, it was $172.2 million.

This year, they come up in 1971 with $85 million, of which $50 million is for construction grants as compared to $267 million, I will say to the Senator from New York, 2 years ago. That $50 million is for direct grants, but an additional $30 million is for loans. Five million dollars is for interest subsidy on private loans. Subsidized loans are supposed to be available to the nonprofit organizations, not the public, that is, hospitals run by the Catholic sisters and other religious and charitable groups.

Thus, the whole direction of the program is subject to change because there were no loans, subsidized or, otherwise, in the previous authorizations. The $30 million in direct loans is 3 percent for a 25-year maximum, but this is only for public agencies, and the $5 million is in interest subsidies, up to 6 percent interest, which is for non-profit groups—that is, if they should be able in these times to float a loan. They have switched that around.

The $40-million item is for grants to public agencies for diagnostic and treatment centers, which they sorely need, of course, but these and $10 million for rehabilitation facilities are the only direct grants. The $30 million for direct loans, changes completely the basic theory of the Hill-Burton program.

We find, over the years, that the direct grants have generated much needed hospital construction. Let me give the figures—in fiscal 1969, 630 projects provided for 29,820 inpatient care beds and some 153 outpatient facilities and the total cost of all these that was $1,132,000,000, of which the Federal share, by giving the direct grants, not loans, was $261 million, or 23 percent. The State and local share, $871 million, was 77 percent.

Over 91 percent of the 1969 projects were additions, alterations, and modernization. Many of these, I must say, long overdue.

Thus, in 1970, total Federal costs will be about $172 million, but we have no estimate yet on the number of projects, but they are piling up down there for grants and we know the local share will be three to four times greater.

As recommended by budget changes, the whole thrust of the program is going into loans and that is what is causing critical problems. I suppose that is why the legislative committee said that we have to spend this the way the Hill-Burton Act provides. I do not blame them for that because it has been a highly successful program in generating all kinds of local money that is needed. I must say not only local and state tax funds, but millions in private dollars. In many cities and localities, the charity of those citizens exceeds the tax funds in their projects.

The problem of modernizing all the

Nation's health facilities, if we start to do it with loans, would exceed $11 billion at a minimum. Thus, we are dealing with a problem of grave fiscal policy here. I understand that. The Senator from Kansas said, do we have a right to make it mandatory? Well, we have the right, but we have no enforcement. No one will say that we can put a President, this one, in jail. We will not do it. They have even withheld trust fund loans. All administrations have done that. This is not just President Richard Nixon. We said certain trust funds had to be spent on highways but they held them up. What they are trying to do here is to switch the basic policy under the Hill-Burton Act. This has been one of the most successful programs in the whole field of health.

I want to underline these figures: 77 percent of the total costs have been generated by the States and the local communities, with public and private funds. Under the proposed loans, this would not happen.

Mr. YARBOROUGH. Mr. President, at the request of the Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that there be printed in the RECORD at the conclusion of his remarks certain tables to which he referred.

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

FISCAL RECAP—HILL-BURTON HOSPITAL CONSTRUCTION PROGRAM

	Modernization	Hospitals and public health centers	Long-term care facilities	Diagnostic or treatment centers	Rehabilitation facilities	Total construction funds-grants
Year:						
1969	$71,382,749	$112,947,261	$56,144,650	$16,404,703	$8,635,695	$267,200,000
1970	27,100,000	54,200,000	63,600,000	18,200,000	9,100,100	172,200,000
1971	[1]	[1]	[1]	[2] 40,000,000	[2] 10,000,000	50,000,000
						[3] (85,000,000)

[1] Under the President's budget for 1971, $30,000,000 would be available for long-term (up to 25 years) loans, at 3 percent, to only public hospitals and other public medical facilities for construction.

Some $5,000,000 is allocated for an interest subsidy program of guaranteed loans, made from other sources, to private, nonprofit agencies for the construction and modernization of hospitals and other health facilities. The subsidy could amount to ½ the interest rate up to 6 percent (no 6-percent money has been available this year).

The justification for the interest subsidy program, contained in the budget documents from the Department says: "This method of financing construction takes into consideration the increasing ability of hospitals to generate revenue to repay loans. This new financial status comes about through depreciation allowances being paid to hospitals and other health facilities by the medicare program and the greater support by health insurance plans of patient charges for medical care."

According to the same budget documents, the Department anticipates this $5,000,000 would subsidize about $166,000,000 in loans and mortgages, and that assumes maximum interest rates of 6 percent.

[2] The President proposed $50,000,000 in direct grants, with $40,000,000 slated for diagnostic or treatment centers, and $10,000,000 for rehabilitation facilities. These would be public facilities, not private, and would constitute increases in those 2 categories over both 1969 and 1970 levels. Those grants would be concentrated on outpatient facilities in the most urban areas.

[3] The total available for construction would be $85,000,000; the $50,000,000 in grants, $30,000,000 in 3-percent loans—all the foregoing restricted to public agencies—and $5,000,000 for the interest subsidy that would be available for private nonprofit agencies.

Note: Departmental and budget documents estimate the total current cost of modernizing all of the Nation's health facilities would exceed $11,000,000,000. Their best judgments on what the States and local agencies could utilize, and match with their own funds, during 1970 is about 25 percent of that. If unlimited funding were granted, State agencies estimate that some 889 projects could be supported, costing a grand total of $3,000,000,000, of which the Federal share would be about $1,150,000,000.

Mr. JAVITS. Mr. President, I yield myself 30 seconds.

Mr. President, as the time is being yielded, I believe it will go more to those who sustain override than to those who oppose it. So we will make time available, as we wish to make it equal.

I now yield to the Senator from Kansas (Mr. DOLE) and to the Senator from Tennessee, and also some time for the Senator from Texas (Mr. YARBOROUGH) who wishes that time for the Senator from Massachusetts.

But, for the information of the Senate, any Senator who opposes overiding can have any time he wishes within our limitation.

PRIVILEGE OF THE FLOOR

Mr. BAKER. Mr. President, I ask unanimous consent that my legislative assistant, Lee Smith, be permitted on the floor for the remainder of today.

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

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD the President's veto message of June 23, 1970.

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

To the House of Representatives:

I am returning without my approval H.R. 11102, the Medical Facilities Construction and Modernization Amendments of 1970. My reason for this veto is basic: H.R. 11102 is a long step down the road of fiscal irresponsibility, and we should not take that road.

This bill authorizes direct grants which are more than $350 million in excess of the budget which I presented to the Congress for Fiscal Year 1971. More than that, it would (1) significantly restrict Presidential options in managing Federal expenditures, (2) isolate the financing of one group of Federal programs as untouchable without assessing its merits against the financial needs for other programs, and (3) encourage pressures to extend this provision to other areas—thereby further complicating management of the Federal budget.

One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent. In addition to restricting flexibility in management of Federal expenditures, this provision would interfere with my ability to comply with the limitation on total 1971 spending that has already passed the House of Representatives and has been reported by the Senate Appropriations Committee. The amount of money involved is large; Section 601 would affect $2.5 billion of my budget request for the Department of Health, Education, and Welfare for 1971. This kind of provision puts the Congress in the position of withdrawing with one hand the authority necessary to do what it requires with the other. I ask the Congress to eliminate Section 601.

Looking to other deficiencies in H.R. 11102, I ask the Congress to remove the authorization for hospital construction grants and to reduce the remaining excessively high authorizations in the bill which are not designed to meet contemporary needs.

The major requirements today are to modernize existing but obsolete hospitals, particularly in the inner cities, and, in the face of skyrocketing medical costs, to expand other types of medical facilities which can serve as more efficient and economic alternatives to hospital care.

Given these factors, I proposed in April, 1969, that the medical facilities construction program be redirected—away from emphasis on additional hospital beds through direct Federal grants-in-aid. Instead, I proposed Federal guarantees for loans obtained in the private sector to modernize obsolete hospitals and construct additional hospital beds where population pressures so require. I further proposed a bloc grant to the States to help construct facilities for ambulatory care, long-term care and rehabilitation—alternatives to hospitalization.

My proposal clearly faced the need to determine priorities in the use of limited Federal dollars. H.R. 11102 avoids facing up to the choice that has to be made. It would add the new program of guaranteed loans on top of an expanded program of grants for construction and modernization of medical facilities. This bill authorizes grants totalling $402 million in 1971; $422 million in 1972 and $437 million in 1973. The public and the medical care industry interpret authorization levels as an appropriation commitment. Yet it is certain that we shall not be able to appropriate such large sums.

The health needs of the nation and the imminent expiration of the existing authorizations make it imperative that the Congress act quickly to correct the shortcomings of this measure. There are many excellent provisions in this bill and I shall be happy to approve a financially responsible bill without delay.

Let no one interpret this veto as in any way lowering the high priority that this Administration has placed on the very important field of health. Health outlays for 1971 will be almost 28 percent higher than in 1969.

We have proposed:

A new program concept of Family Health Insurance which will benefit more than four million poor families as part of the family assistance program.

Substantial increases in high priority areas of biomedical research; such as heart and cancer.

Revision of Medicare to enable the aged to take advantage of the more comprehensive and efficient operation of pre-paid group practice arrangements.

Significant expansion of programs to alleviate the major national problems of alcoholism and drug abuse.

Expansion of family planning programs to provide counselling and assistance to millions of women who want but cannot afford such services.

Major increases in funds to curb air pollution.

In these times there is no room in this massive program—or in any other program—for the kind of needless and misdirected spending represented in H.R. 11102. I again call upon the Congress to join me in holding

down government spending to avoid a large budget deficit in Fiscal Year 1971.

RICHARD NIXON.

THE WHITE HOUSE, *June 22, 1970.*

Mr. DOLE. Mr. President, let me emphasize that this was a difficult veto for the President. It does not in any way indicate that he is establishing a low priority for health care.

As the President pointed out in the message, he has proposed a new program concept of family health insurance; a substantial increase in high priority areas of biomedical research, such as heart and cancer; revision of medicare to enable the aged to take advantage of the more comprehensive and efficient operation of prepaid group practice arrangements; a significant expansion of programs to alleviate the major national problems of alcoholism and drug abuse; and other programs which are stated in the message.

There will be charges made that President Nixon, by virtue of this veto, has no concern and feels no compassion for those who, from time to time, use facilities authorized by this act.

I take this time, Mr. President, to emphasize that President Nixon has made it very clear in his message what his objections are, and that he is not opposed to health care or expanded care.

Mr. ALLOTT. Mr. President, the question before us now is whether or not to sustain the President's veto of H.R. 11102, the Medical Facilities Construction and Modernization Amendments of 1970. These Hill-Burton amendments have been carefully studied by the President and found unacceptable.

It is the President's clear duty, in the best of times, to insist on economic restraint in all legislative fields. Since these are certainly and admittedly significantly inflationary times it becomes all the more important for the President to exercise stringent oversight.

In this regard, the President finds one provision especially unacceptable. It is section 601, in which Congress insists that funds appropriated for any fiscal year through 1973 for the purpose of implementing these programs be spent in full.

The President objects to this on two grounds. First, it restricts the flexibility that makes for efficiency in using public moneys. Second, it cripples the President in his efforts to comply with the limitation on 1971 spending.

As Members know, yesterday we agreed to the conference report on the fiscal year 1970 supplemental appropriation bill which contained language limiting the expenditures of money during the fiscal year 1971. This measure is now on its way to the White House for signature by the President. Nothing more clearly dramatizes the conflicting interests in the Congress. We are in danger of appearing as though our left and right hands are working against each other.

Let me make two things very clear. I have been a strong and consistent supporter of the Hill-Burton program ever since I came to the Senate. In addition, I supported H.R. 11102 when it was voted on here.

It seems to me that the issue is this: What deference is owed the President on this matter? My answer is that the President is charged with fighting the current inflation, and if he deems this measure detrimental to that fight, then we should accede to his request for revisions in this measure.

Two things are clear. First, the Nation's ability to reorder its priorities and to make new innovations in social programs depends, first and foremost, on cooling the inflationary fires. Second, we must not allow political considerations to intrude into the fight against inflation. In this regard, let me call attention to the curious situation the President confronts.

He is contending with two major problems, both of which were full blown when he inherited them from the previous administration. On the one hand he is cooling a war which, until he came to office, had been steadily escalated for 8 years. On the other hand, he is trying to cool an inflation which resulted from the management of the war.

It is a fact that this inflation was roaring along in 1966. It is a fact that in 1965 President Johnson ignored the advice of his own Council of Economic Advisors when it unanimously recommended a small anti-inflation tax increase. The then President refused to bite the bullet, and the inflation went roaring ahead. In 1967, with inflation out of control, President Johnson finally asked for a tax increase. But Congress, which his own party controlled, refused to bite the bullet. The inflation gained even more momentum.

Now the time has come when the President who inherited the inflation must bite a series of bullets if he is to protect the national interest. This would be unfortunate and unjust in any case. What makes it especially unpleasant is the fact that an independent observer might conclude that politics was entering into all this. Let me explain.

The President has announced a tight, pared-down budget. Time and time again he has stressed the need for restraint. But there now seems to be a pattern emerging. The Congress, which is controlled by a party other than the President's, seems to be developing the habit of sending to the White House spending measures which ignore his suggestions for restraint. Frequently these concern spending for things we all favor, such as education or—as in this case—health. Thus the stage is set for some partisan speechmaking. If the President permits the spending, then the inherited inflation will get a new lease on life. If the President vetoes the spending, then the partisan accusations begin. The President, it is said, is against education, or health or whatever.

This is a tiresome political dance and I think the American people understand it for what it is. It is an attempt to wear down the President by making him fight inflation and the party that started the inflation, all at the same time.

No one who has studied the issues involved here will accept the superficial notion that a vote to sustain this veto is a vote against progressive health policies. The reverse is closer to the truth. The President has repeatedly stressed that the crying need today is not just for new hospital construction. Would it were true that all inadequacies in any field could be done away with by putting up new buildings. The President understands that our problems are more complex and our solutions must be more subtle than that.

It is the President's belief, based on the best counsel available, that the real need is for the modernization of existing hospitals and for imaginative innovations in medical care that will serve as alternatives to hospitalization.

The authorizations which the President finds imprudent are authorizations which are not directed toward progressive innovation. Rather, they are directed at the least effective forms of expenditure. Thus the Congress could modify this bill so as to conform with the President's requests and the Nation's needs—both medical and economic—without crippling the President's progressive policy in the field of medical facilities.

As the President has said in his veto message, he has asked for a substantial increase of 28 percent in 1971 over 1969. This administration's commitment to improving the Nation's health programs cannot be doubted. But the Nation's No. 1 health problem is our unhealthy economy.

The techniques that got the economy in trouble are being applied in the attempt to override the President's veto. I hope these attempts will fail, and that the President will be sustained in his attempt to improve the health of the American people and the American economy.

I wish the President did not feel that revisions are necessary in this measure. But he does feel that, and I defer to his judgment because it is his task to take into account the larger picture of the whole economy. I am glad that the revisions he requires would not constitute major sacrifices in the Nation's medical effort. Thus I urge the Senate to vote against overriding the President's veto.

Mr. JAVITS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. CRANSTON). The Senator from New York has 4 minutes remaining.

Mr. YARBOROUGH. Mr. President, how much do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 7 minutes remaining.

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Massachusetts.

Mr. YARBOROUGH. Mr. President, I yield 7 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the distinguished chairman of the committee, the Senator from Texas (Mr. YARBOROUGH), and the ranking minority member of the committee, the Senator from New York (Mr. JAVITS).

I join in the expressions of commendation of the distinguished chairman of the Health Subcommittee, Mr. YAR-

BOROUGH. He undertook a new responsibility on the retirement of the former chairman of the subcommittee, Senator Hill, whose name is part of the measure we are considering this afternoon.

As one who attended the hearings and worked with the Senator from Texas on this measure, I think it bears the strong and well-deserved imprint of the Senator from Texas.

I commend the Senator from Texas, as we go into the final few minutes of this discussion and debate, for the work he has done on the bill.

I intend to vote this afternoon to override the President's veto of the Hill-Burton Act, and I urge my colleagues to do so also. By a wide margin last week, the House of Representatives mustered the two-thirds majority necessary to override the veto, and the Senate must not fail to do the same.

The vote we are about to record must be a vote of confidence in American health, a signal to the tens of millions of Americans concerned over the deteriorating quality of health care in the Nation that Congress is at last aroused to the crisis, and that we are equal to the challenge.

It is no small coincidence that the only two vetoes by President Nixon thus far in his administration have been vetoes of health bills. It is an extremely bitter irony that at a time of massive Federal spending in areas like national defense, farm programs, space, and the SST, the President has chosen to challenge the Nation's health constituency by vetoing modest authorizations and appropriations for urgently needed health programs.

The veto of the Hill-Burton Act, however, is more than just an indication of the low esteem in which the present administration holds health care in America. The veto is also an affront to the Hill-Burton Act itself, and to all the Senators, Congressmen, and members of previous administrations who for a quarter of a century helped to make this act one of the most popular and successful Federal grant programs in the Nation's history.

It is fair to say that for a generation, the Hill-Burton Act has been the centerpiece of matching Federal grant legislation. In the 24 years since it was conceived by Senator Lister Hill of Alabama and Congressman Harold Burton of Ohio and signed into law by President Truman, the act has poured more than $3.5 billion into the construction and modernization of health facilities in 4,000 communities in all parts of America; $73 million has gone to Massachusetts. More than 10,300 projects have received Federal funds under the act, 308 of them in Massachusetts. The Federal funds have been matched with more than $8 billion in State and local funds; the total cost of projects stimulated by the Hill-Burton Act is $11.5 billion, of which $446 million has gone to Massachusetts.

In spite of the success of the act, however, we know that there is a widening gap between the demands of our people for better health care and our ability to provide the facilities and services they need. In part, the new demand has been created by the mushrooming discoveries of medical research in recent years—discoveries that have laid the groundwork for far more effective treatment of a vast range of serious illnesses. In part, the demand has been created by new and imaginative Federal programs like medicare and medicaid—programs that, in spite of their flaws, have brought new hope for better health care to millions of poor and older citizens.

We know the success of the Hill-Burton Act, but we also know the tremendous need for health facilities that still exists, and we know that Hill-Burton is probably the only Federal health program capable of ever beginning to meet that need. The figures demonstrating the current need are dramatic. As of January 1, 1968, the most recent year for which data are available:

We need $6 billion worth of construction of additional health facilities. We need facilities for 85,000 more acute care beds in general hospitals, more than 165,000 long-term care beds, nearly 900 public health centers, nearly 1,100 out patient centers and nearly 400 rehabilitation facilities.

We need $11 billion to modernize or replace our archaic and obsolete existing facilities. Nearly half of the Nation's general hospitals and more than one-third of our long-term care facilities need to be modernized or replaced. Together, these facilities in need represent 465,000 beds. In addition, we need to modernize 1,200 public health centers, 1,400 outpatient centers, and 180 rehabilitation facilities.

Nowhere is the need for better health facilities more apparent than in our urban municipal hospitals. The deplorable condition of the great city and county hospitals of urban America is the single most desperate aspect of our current health crisis. I know first hand the plight of Boston City Hospital, the only "doctor" known to thousands of Boston's poor. I also know that the plight of Boston City Hospital is common to city hospitals throughout the Nation.

Every day in countless institutions in America—places like Boston City Hospital, D.C. General Hospital, Bronx Municipal Hospital, Philadelphia General Hospital, St. Louis City Hospital, or Cook County General Hospital—the tragedy of inadequate health care is played out by overworked staffs in decrepit facilities to the lasting detriment of the spirit of America. Last night, I visited Boston City Hospital once again. I saw again the deplorable facilities, the overcrowded emergency rooms, the decrepit wards, the shocking conditions under which some of the finest doctors in the Nation are required to practice their healing art.

Seen in the light of this extraordinary need, the three major criticisms of the bill stated by the President in his veto message to Congress—the high authorizations, the failure to eliminate the grant program in favor of a guaranteed loan program, and the mandatory spending provision—are criticisms that are easily rebutted. As the figures I have cited demonstrate, and as every hospital administrator in America knows, the demand for funds for the construction of new health facilities and for the modernization of existing facilities is enormous—of the order of $17 billion.

In the face of these many billions of dollars of immediate need, it can hardly be maintained that Congress is being spendthrift when it authorizes less than $1 billion a year for the next 3 years, to continue the essential work of the Hill-Burton Act. Indeed, for the entire 3 years of the act, we are asking a total of $2.8 billion, or only slightly more than $2.4 billion in cost overruns for the C–5A alone.

Similarly, in the face of the existing need and the obvious success of the Hill-Burton grant program in helping to meet the need in past years, it would be entirely unrealistic for Congress to abandon the grant program and shift the heart of the act to a program of guaranteed loans, as the administration originally requested. Congress wisely decided to add guaranteed loans as an addition to—not a substitute for—the program of direct grants. If we in Congress had relied solely on guaranteed loans, at this time of soaring interest rates, we might well have been denying any Federal assistance at all to hundreds of hospitals and other health facilities—especially public facilities. The needs of these facilities are very great, but their precarious financial status might well have made them incapable of entering today's money market to borrow funds, even at the subsidized rates offered by the pending bill. By making guaranteed loans available as an additional source of Federal financing, instead of the sole source of financing, I believe that Congress has recognized the reality of the existing need and has gone far to meet it.

Nor is the mandatory spending provision an adequate excuse to justify the veto of this important legislation. That provision, which was added by the Senate, requires that all funds appropriated by Congress for the Public Health Service Act and for the Mental Retardation-Mental Health Act must be spent. In light of the obvious need that exists, and in light not only of the administration's announced intent to dismantle the grant program, but also of the administration's clear reluctance to fund health programs in a measure even remotely in accord with need, I believe that Congress is amply justified in exercising its will through a mandatory spending provision.

Moreover, measured in terms of real dollars—dollars discounted by inflation—that we have been spending under the Hill-Burton Act in recent years, it is clear that our Federal commitment has actually declined, not increased. In 1963, the total appropriations for the Hill-Burton Act were $220 million. The authorization for 1971 in the bill vetoed by the President is $382 million. Measured in 1963 dollars, however, the bill's authorization for 1971 is only $222 million, or almost precisely the 1963 figure. Yet, we know that the appropriation for 1971 will almost certainly be lower than the authorized amount. We also know that, because of population growth, research discoveries, and other factors, our overall commitment is seriously declining. We simply have not had the courage to

maintain the sort of strong commitment we require.

The mandatory spending provision has an interesting recent history. The traditional back-seat role of Federal health programs was very clearly revealed in a dramatic sequence of back-to-back votes on the Senate floor a year ago last week. In June 1969 the Senate voted 52 to 43 to exempt education programs from the ceiling on Federal appropriations for the current fiscal year, and then promptly refused—by a 47 to 45 vote—to give the same exemption to health programs.

Thus, the mandatory spending issue in the Hill-Burton Act vetoed by the President last week is almost precisely a rerun of the controversy we had last year on the spending ceiling. Only this time, thanks to the work of dedicated health leaders throughout America, the health constituency in the Nation has more muscle to flex, and our effort to gain a place in the sun for Federal health programs was successful.

Moreover, the mandatory spending provision in the bill sent to the President by Congress is far weaker than the version of the provision that passed the Senate. In addition to the Public Health Service Act, and the Mental Retardation-Mental Health Act, the Senate bill would also have applied the mandatory spending requirements to funds appropriated under the Clean Air Act, the Solid Waste Disposal Act, the Vocational Rehabilitation Act, and several other Federal statutes. After extensive discussion, the Senate-House conference on the act agreed to restrict the impact of the provision to the Public Health Service Act and the Mental Health-Mental Retardation Act, where the need for adequate funds is extremely critical.

Finally, apart from the controversy over the merits of the mandatory spending provision, nothing better illustrates the chaos and confusion in the administration's health programs than the manner in which the administration has failed to serve notice to Congress of its displeasure over the provision. The provision was included in the bill reported to the Senate by the Committee on Labor and Public Welfare in February 1970. It passed the Senate in April without objection. It was not until late in May, during the Senate-House conference, that the first substantial administration objection was raised. Largely in response to that objection, the conference cut back the provision, and the conference bill passed both the House and the Senate in June, without apparent further objection from the administration. Then, at the 11th hour, the President abruptly vetoed the bill, citing the mandatory spending provision as the principal cause of the veto.

If one lesson seems clear in this current veto debacle for the administration, it is that the President's health advisers seem to have addicted their responsibility, and yielded the field to his economic advisers. It is worth summarizing briefly some of the most important provisions of the legislation vetoed by the President, in order to see in perspective the relative merits of the health and economic arguments over the bill.

The bill continues the basic grant program for the construction and modernization of health facilities, with substantial new emphasis on outpatient facilities and on facilities in urban areas and in poverty areas.

The bill establishes a new program, requested by the administration, of Federal loan guarantees, with a 3-percent Federal interest subsidy, for the construction and modernization of health facilities.

The bill establishes a new program of grants for the construction and modernization of emergency rooms of general hospitals.

Indeed, it is fair to say that the pending legislation accomplishes the most thorough-going improvements in the Hill-Burton Act since the act was originally signed into law in 1946. Yet, it was vetoed by the President.

It is difficult to believe that the economic arguments in favor of vetoing the bill could have prevailed against an energetic presentation of the very real health arguments in favor of signing the bill, given the proven past success of the Hill-Burton program and the modest sums involved in the controversy over the authorizations, the direct grants, and the mandatory spending provision.

By voting today to override the veto of this legislation, therefore, we will be doing more than preserving a major Federal health program. We will be doing more than simply renewing the historic Hill-Burton Act. We will be demonstrating to the President and the members of his administration that Congress has a deep commitment to the quality of health care in America, and a genuine determination to alleviate the health crisis into which we are sinking. We invite the administration to face up to its responsibility in this basic area, and to join Congress in a new partnership to bring order out of the current disarray of Federal health.

In closing, as we prepare to vote on this question, I think it is worth emphasizing again some of the problems the Health Subcommittee was faced with when legislation was introduced by the administration.

There was no authorization figure written into the legislation when the administration's bill was first introduced before the Senate. The Health Subcommittee acquired detailed information to try to balance out the needs and arrive at a sound fiscal position.

As a result of the hearings that were held, we realized that the figures contained in the bill before us this afternoon were absolutely necessary.

As I have indicated, I think they are extremely modest figures. We are talking about something slightly less than $3 billion for the next 3 years. We ought to measure that figure against the need recognized by the Department of Health, Education, and Welfare. And when we consider the need for health facilities that already exist, we realize that the pending measure over the next 3 years will meet only about 15 percent of the needs today.

When we consider the administration position on loans versus grants, we know that the initial measure proposed by the administration placed emphasis on loans, to the almost complete exclusion of grants, in spite of the fact that grants under the Hill-Burton Act have made the act one of the most successful measures to pass the Senate since the Second World War.

Let us make no mistake about it. In the area where there is the greatest need, particularly in the municipalities of this country, it is extremely difficult, if not impossible, for hospitals and other health facilities to obtain loans, even with the subsidy included in the bill.

The distinguished Senator from Colorado (Mr. DOMINICK) introduced a measure that substantially improved the loan guarantee program. I supported it. I think it is worthwhile. However, I also think we delude ourselves if we believe that by providing solely a subsidized loan program, we can come to grips with the urgent need for hospital construction and modernization that exists in many of our municipalities.

On the question of the mandatory spending provision, I believe that, by mandating the President to spend the funds appropriated pursuant to this legislation, we can have a court test of the issue.

Mr. DOMINICK. Mr. President, will the Senator yield on that point?

Mr. KENNEDY. Mr. President, I yield.

Mr. DOMINICK. Mr. President, it is my understanding that section 601 simply says, not that the money must be spent, but that when appropriated it remains available until spent. That means that it cannot be transferred, but that it has to stay in that program. Is that a correct statement?

Mr. KENNEDY. Mr. President, they cannot be transferred, as has been done in earlier instances. That is basically correct. Of course, as the statement of the House conferees makes clear, the purpose of section 601 is to do more than simply prohibit the transfer of funds. It is also intended to prevent administratively imposed freezes, reductions, and rollbacks from affecting the health programs covered by the section.

I think that in section 601 the Members of Congress are expressing their determination that funds appropriated under the covered programs must be spent.

I have listened to the dialog that took place earlier in this debate, and to the question propounded by the distinguished Senator from Kansas with relation to whether we have the constitutional authority to mandate that the President actually expend these funds, as required under the pending legislation.

We have listened to the statement of the distinguished Senator from New York, who said that his interpretation of this provision is that we are removing the covered health programs from Federal expenditure ceilings or other similar budgetary restrictions.

I would like to add an additional di-

mension, Mr. President. I believe that if the President does not expend the appropriated funds, the matter would be opened up to some kind of lawsuit, either by an individual, a hospital, or another interested party, to enforce the will of Congress that the funds must be spent in the way Congress has designated.

Mr. President, I think that for the reasons outlined, the measure before us is reasonable. It is extremely modest in terms of the tremendous need which exists. I think that we were well within our authority and responsibility in identifying these programs as programs where our scarce resources simply must not be diverted.

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

Mr. KENNEDY. I yield.

Mr. MURPHY. Does the Senator agree with me that in writing legislation we on the committee should take the responsibility and make it the job of the committee? To include the expenditure of the money is a judgment that might very well properly be made a part of the legislation.

It would seem to me that this should be a part of the responsibility of the committee involved, to advise, after hearings, after all the evidence is in, that we think, first, this is the amount of money needed and, second, in our judgment this is the way the money should be spent.

I see nothing improper about that and I do not know whether the propriety of this has ever been tested or not. But I hope the distinguished Senator from Massachusetts would agree that this is part of the responsibility and a proper part of the responsibility to be assumed by the committee in order to help and advise in our desires in the legislation, as we pass it on to the Executive, to become law.

Mr. KENNEDY. I agree with the comments of the Senator from California. I would say also that, with respect to the interpretation of section 601 as a mandatory spending provision is made unmistakably clear in the President's veto message, where he states:

> One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent.

In response to the question of the Senator from Colorado, I wish to make it extremely clear that it is my interpretation that section 601 requires that all funds appropriated for programs covered by section 601 must be spent. This is the way the President interprets the provision, and this is the principal reason he vetoed the bill. It is also a major reason why we in Congress are about to vote to override the veto. We have joined the issue squarely with the administration, and I am confident that the will of Congress will prevail.

The PRESIDING OFFICER. Who yields time?

Mr. YARBOROUGH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. YARBOROUGH. Mr. President, I yield 1½ minutes to the Senator from Arkansas.

Mr. FULBRIGHT. Mr. President, I shall vote to override the President's veto. I think that on my list of priorities, those things most important to my State and to the country, the health of our people is very high. I would regard it as much higher than such items as the ABM, the SST, and a number of other programs involving far more money than this.

Mr. President, I ask unanimous consent to have printed in the RECORD a table showing the statistics for hospital aid to Arkansas under grants and loan guarantees for fiscal years 1971, 1972, and 1973.

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

STATISTICS FOR HOSPITAL AID TO ARKANSAS

[In millions of dollars]

	Grants	Loan guarantees
Fiscal—		
1971	5.7	5.1
1972	5.9	5.1
1973	6.1	5.1
Total	17.7	15.3

Mr. FULBRIGHT. Mr. President, I was pleased that this measure was passed by the House and I hope the Senate concurs with the House in establishing this as a high priority. I do not think this is a repudiation of the President but it does exhibit an indication of what is most important for our country under present conditions. I think this is one of the most important matters and I hope the Senate overrides the veto.

Mr. YARBOROUGH. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. HARRIS. Mr. President, President Nixon's veto of the Hill-Burton authorization for hospital construction and modernization marks the second time this year his veto has been used to limit funds urgently needed for health.

The veto comes at a time when America must reorient its priorities if we are to remedy the present crisis in health care. I do not believe that we can idly continue to spend vast sums for an ABM or an SST and at the same time refuse to give attention at the proper level to the health and other essential needs of our citizens.

Fifteen years ago, the United States ranked second among industrial countries in the survival of mothers at childbirth. Now we rank 12th.

The United States ranks 14th among industrial countries in infant mortality, while in 1955 we ranked seventh. We are 18th among nations in life expectancy of men and 11th for women.

Thousands of persons who need medical attention are daily denied or delayed entrance into America's hospitals because of a lack of hospital beds, a situation which the Hospital Construction Act will improve.

Information from State agencies administering the Hill-Burton program indicate a need for 85,000 "acute" hospital beds, 164,430 "long-term" beds, 893 public health centers, 872 diagnostic and treatment centers and 388 rehabilitation facilities—with a total estimated cost of $5.3 billion. Additionally, 455,130 "acute" and "long-term care" beds presently required modernization, costing $10.5 billion. Current total needs of $15.8 billion for hospital modernization and construction presently exist in America. Yet the President has vetoed, as fiscally irresponsible, a bill which would authorize only $2.79 billion for this purpose over a 3-year period.

The President's veto of the Hill-Burton authorization is inflationary. With hospital beds and trained medical personnel in such short supply, expanding demand for health services continues to force medical costs up. Too often those who need health care most are unable to afford it because of these spiraling costs.

In my own State of Oklahoma, the loss of Hill-Burton funds provided in this bill would jeopardize the successful completion of the University of Oklahoma Medical Center. Without such expansion, I have been informed, the university will be unable to expand its medical school enrollment, a great need if there is to be hope of remedying present shortages of medical personnel in Oklahoma.

The President has suggested that the program move from direct grants to guaranteed loans. However, since public institutions in Oklahoma are prohibited by law from borrowing, they would thus have no alternative source of funds. Those medical institutions which are legally able to borrow find such an option of little value now, in view of present interest rates.

I have received numerous telegrams from hospital administrators, doctors, and concerned citizens throughout Oklahoma who are fearful of the adverse effects of any loss of Federal funds intended by this bill for hospital construction programs.

I ask unanimous consent that some of these telegrams be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HARRIS. Mr. President, it is significant, I think, that this year's Hill-Burton authorization provides for priority rightly to be given to construction and modernization of facilities which provide services for the rural and urban poor, which offer comprehensive health care, which provide for the training of health personnel, and which aid in the treatment of alcoholism. The Senate and the Congress should reaffirm its strong approval of these priorities.

Mr. President, in order that all Ameri-

cans may more nearly realize their fundamental right to good health, we must greatly improve our health delivery system. The 3-year continuation of Hill-Burton funds provided in this bill as passed by Congress, is a small but necessary first step.

The House of Representatives has already acted. The Hospital Construction Act, vetoed by the President, is now before the Senate. I urge that it be passed and enacted into law, notwithstanding the President's veto.

EXHIBIT 1

STILWELL, OKLA.

Hon. FRED HARRIS,
U.S. Senate Office Building,
Washington, D.C.:

We are deeply distressed over the presidential veto of House Bill 11102, Hill-Burton program. The city of Stilwell is desperately in need of replacing its outdated, inadequate hospital with a new and larger facility. Your help is urgently needed. The Hill-Burton program is the only way this can be accomplished therefore we sincerely urge you and your colleagues in the Congress to override the Presidential veto of the Hill-Burton program.

Dr. JOHN CARSON,
President, Stilwell Municipal Hospital Board of Trustees.
BOB BAKER,
President,
Stilwell Chamber of Commerce.
H. D. GOUND,
President, Stilwell Kiwanis Club.

LAWTON, OKLA.

Senator FRED R. HARRIS,
Senate Office Building,
Washington, D.C.:

Presidential veto on House Bill 11102 seriously hampers planned expansion of health dept. facilities for Lawton and Comanche County as well as expansion of Comanche County Memorial Hospital. Request your assistance in restoring funds for medical facilities construction and modernization administration for 1970.

Dr. CHARLES E. GREEN,
Medical Director,
Comanche County Health Department.

TULSA, OKLA.

Senator HARRIS,
Washington, D.C.:

Urge override of President's veto of Hill-Burton bill. This institution's and many other Oklahoma hospitals future plans are in jeopardy without substantial support from the Federal Government.

JAMES D. HARVEY,
Administrator,
Hillcrest Medical Center, Tulsa, Okla.

OKLAHOMA CITY, OKLA.

Hon. FRED HARRIS,
Washington, D.C.:

The President's veto of Hill-Burton could not have come at a worse time for our hospital. Our preliminary building plans have been drawn based on Hill-Burton participation. Please help override the President's veto and retain superior health facilities for Oklahoma.

JOSEPH G. BRUM,
Administrator, Oklahoma General Hospital.

CLINTON, OKLA.

Senator FRED HARRIS,
Senate Office Building,
Washington, D.C.:

The President's veto of Hill-Burton could not have come at a worse time for our hospital. Our preliminary building plans have been drawn based on Hill-Burton participation. Please help override the President's veto and retain superior health facilities for Oklahoma.

JOSEPH G. BRUM,
Administrator, Oklahoma General Hospital.
GLENN T. DEWBERRY,
Medical Director, Western Oklahoma TB Sanitorium.

OKLAHOMA CITY, OKLA.

Hon. FRED HARRIS,
Senate Office Building,
Washington, D.C.:

Worried concerning presidential veto of Hill-Burton extension (H.R. 11102) which might set unfortunate precedent for similar action on other health bills exceeding presidential requests. Strongly urge your action to override veto. Thank you.

JAMES L. DENNIS, M.D.,
Vice President, University of Oklahoma Medical Center.

PONCA CITY, OKLA.

Senator FRED HARRIS,
U.S. Senate,
Washington, D.C.:

I urge your strong support of the Hill-Burton legislation. This will be of great help to Oklahoma hospitals. The necessity to borrow money at high interest rates will further increase hospital costs.

KEITH E. CALVERT,
Administrator, Ponca City Hospital.

IDABEL, OKLA.

Senator FRED HARRIS,
Washington, D.C.

DEAR SIR: The people of McCurtain County are in dire need of more medical physicians.

The veto of Hill-Burton funds has put us in a critical position regarding expectation. We urge you to vote for an override of the presidential veto on H.R. 11102 and S. 8549. We do need the continuation of the Hill-Burton funds. Thank you for your help in this matter.

JUANITA H. WEBSTER,
Administrator, McCurtain County Memorial Hospital.

Mr. JAVITS. Mr. President, I yield 30 seconds to the Senator from Utah.

Mr. MOSS. Mr. President, I intend to vote to override the President's veto of the Medical Facilities Construction and Modernization Amendments of 1970. The funds contained in this appropriations bill for hospital construction are desperately needed in my State. In Utah we now have a backlog of $48.3 million in planned medical facilities. Under the Hill-Burton formula about $20 million of this backlog is eligible for Federal assistance.

Yet last year the Hill-Burton appropriation brought to Utah only $1.1 million for hospital construction. The appropriation bill, vetoed by the President, would more than double this amount. As the figures show, this is still nowhere near enough, but at least it is an improvement.

As we all know, the cost of living is still rising at an unacceptable rate, but the per diem rate of hospital care has gone up twice as fast. It will continue to do so unless the growing shortage of hospital beds is reversed.

But the override of this veto would do more than provide badly needed funds for medical services—it would be another step toward reordering our national priorities.

For some reason President Nixon has chosen to single out appropriations for education and hospitals for his veto. Why is it, the American people are going to ask, that money spent in these badly starved domestic areas is called inflationary while millions of dollars are allotted to weapons systems? The money contained in this bill, for example, would not even pay for one aircraft carrier. Yet think of the lives more hospitals could save.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. JAVITS. Mr. President, I understand the concern of the President. I think the President made some very critically valuable points in terms of the overall spending ceiling and the situation of our country. However, the one thing we must have in mind, and the reason for the way I shall vote, is that this is an authorization and not an appropriation bill. It seems to me that on the authorization we have a right to say that the health priority is so high we can surround it with safeguards against transferability and against cutting into the debt limit ceiling that may be placed on expenditures. Then, when it comes to the appropriation stage the red flag is up for the Committee on Appropriations that this is one measure that will not go along with the generality of the appropriation. I think that is the element of reasoning which I hope has been called markedly to the attention of the President. It represents no disrespect to him, but it is the rationale by which I and other Senators will vote to override.

Mr. YARBOROUGH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 2 minutes remaining.

Mr. YARBOROUGH. Mr. President, first, I desire to express appreciation to the distinguished senior Senator from California for his very generous remarks toward me in connection with work on this bill that we, representing two great southwestern States, have engaged in together.

I thank the Senator from Massachusetts for his kind remarks. In addition, I am indebted to many other Senators and my failure to mention them is not due to any lack of appreciation but it is due to the limited amount of time available to us.

Mr. President, I ask unanimous consent to have printed in the RECORD a table entitled "Hill-Burton Comparative Budget Table for Fiscal Years 1970, 1971, 1972, and 1973."

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

HILL-BURTON COMPARATIVE BUDGET TABLE

[In millions of dollars]

	1970			1971			1972		
	Authorization	Appropriation	Administration legislative proposal	H.R. 11102	Administration legislative proposal	Administration budget request	H.R. 11102	Administration legislative proposal	1973 (H.R. 11102)
GRANTS									
Hospitals and public health centers	130	54.2	0	147.5	0	0	152.5	0	157.5
Modernization	[1] 65	[1] 27.1	0	65.0	0	0	80.0	0	90.0
Long-term care facilities	70	63.6	0	85.0	0	0	85.0	0	85.0
Diagnostic and treatment facilities (1970)	20	18.2	0						
Outpatient facilities (1971–73)				70.0	0	40	70.0	0	70.0
Rehabilitation facilities	10	9.1	0	15.0	0	10	15.0	0	15.0
Emergency rooms			0	20.0	0	0	20.0	0	20.0
Bloc grants to States (but not including hospital construction and modernization as well as emergency rooms)			150		([2])	0		([2])	
Total	295	172.2	150	402.5	([2])	50	422.5	([2])	427.5
LOANS									
Guaranteed loans with interest subsidy			500	500.0	500		500.0	500	500.0

[1] No separate authorization in 1970; amount administratively determined.
[2] And such sums as may be necessary.

Source: Prepared by staff of Senate Labor Committee.

Mr. YARBOROUGH. Mr. President, in connection with the question of budget priorities, we have had an amazing example of priorities on two votes taken an hour and a half apart. I refer to the vote on military expenditures, the great runaway we have had in this country that is taking so much of our resources, at a time when our domestic institutions are not growing but rather are slipping back.

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

Mr. YARBOROUGH. Mr. President, I yield myself 1 additional minute.

Mr. President, I ask unanimous consent that there be printed in the RECORD a letter from Mr. Robert P. Mayo, the Director of the Bureau of the Budget, dated May 11, 1970, opposing section 601. This letter which was Mr. Mayo's analysis of the effect of section 601, was before the conference and was carefully considered. In adopting section 601 the conference decided to disregard Mr. Mayo's objections to the provision.

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

BUREAU OF THE BUDGET,
Washington, D.C., May 11, 1970.

HON. RALPH YARBOROUGH,
Chairman, Committee on Labor and Public Welfare, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to call your attention to a section of the Senate-passed version of the Hill-Burton bill (H.R. 11102) which I believe to be particularly undesirable both from the standpoint of budgetary control and maximizing the use of public funds.

This section—Section 601—attempts to force the full use by the executive branch of all appropriations authorized by the Acts set forth therein, regardless of conditions or circumstances obtaining after the appropriations have been granted. With respect to almost all health-related activities of the Department of Health, Education, and Welfare, this section effectively nullifies those provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves "to provide for contingencies, or to effect savings wherever savings are made possible by or through changes in requirements, greater efficiency in operations, or other developments subsequent to the date on which such appropriation was made available."

Enactment of Section 601 would mean that almost $4 billion of the Department's appropriations for fiscal year 1971 would become exempt from restrictions that from time to time the executive branch has found it necessary to impose on the obligation or expenditure of public funds, including those resulting from overall spending reductions required by statute.

Finally, the section converts appropriations for HEW health-related programs into mandates to spend regardless of considerations of commonsense economy and prudent use of the taxpayers' money.

For example, new and urgent priorities unanticipated when the appropriations were enacted may require cutbacks in the use of lower priority funds in order to hold the total budget within reasonable bounds. Inflationary construction cost increases may at times make it desirable to reschedule the planned use of funds in accordance with the economic situation.

We believe the loss of flexibility which would result from enactment of Section 601 could have serious adverse consequences and strongly recommend that the Conference Committee eliminate this provision from H.R. 11102.

Copies of this letter are enclosed for all the Senate members of the Conference.

Sincerely,

ROBERT P. MAYO,
Director.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from Iowa.

REASONS FOR VOTING TO SUSTAIN PRESIDENTIAL VETO

Mr. MILLER. Mr. President, the Senate, by a very large vote, passed the Medical Facilities Construction and Modernization Amendments of 1970 Act on April 7. I voted for it.

Since that time, however, there have been developments of very great importance to the Federal budget. These came to light with the passage by the House of H.R. 17802, the bill to increase the national debt ceiling limitation from $377 to $395 billion.

In examining the reason for such a surprisingly large increase, it developed that the administrative budget deficit for fiscal 1969 was $5.4 billion, for fiscal 1970 it is estimated to be $11 billion, and for fiscal 1971, the projected deficit is $10 billion.

These serious deficit figures came as a surprise to many people, who had been looking at the unified accounts budget figures presented by the administration and which showed a surplus. But the reason for the surplus is that the trust fund surpluses were taken into account. Thus, the administrative or operating budget of the Federal Government has been in a serious deficit position, while the trust fund surpluses were used to offset the deficits. Nevertheless, those surpluses must be paid back, and they have to be paid back eventually by taxes. Until the taxes come in, the only way to pay them back is for the Federal Government to borrow the money; and that means an increase in the national debt.

All of this spells difficulty in slowing down inflation and easing high interest rates.

The President's veto message very well points up the problem of the mandatory spending provisions of this bill; and it is clear that those mandatory spending provisions will only aggravate an already serious administrative budget deficit and make it more difficult to control inflation.

I ask unanimous consent that the President's message be placed in the RECORD at this point.

There being no objection, the President's message was ordered to be printed in the RECORD, as follows:

VETO MESSAGE

To the House of Representatives:

I am returning without my approval H.R. 11102, the Medical Facilities Construction and Modernization Amendments of 1970. My reason for this veto is basic: H.R. 11102 is a long step down the road of fiscal irresponsibility, and we should not take that road.

This bill authorizes direct grants which are more than $350 million in excess of the budget which I presented to the Congress for Fiscal Year 1971. More than that, it would (1) significantly restrict Presidential options in managing Federal expenditures, (2) isolate the financing of one group of Federal programs as untouchable without assessing its merits against the financial needs for other programs, and (3) encourage pressures to extend this provision to other areas—thereby further complicating management of the Federal budget.

One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent. In addition

to restricting flexibility in management of Federal expenditures, this provision would interfere with my ability to comply with the limitation on total 1971 spending that has already passed the House of Representatives and has been reported by the Senate Appropriations Committee. The amount of money involved is large; Section 601 would affect $2.5 billion of my budget request for the Department of Health, Education, and Welfare for 1971. This kind of provision puts the Congress in the position of withdrawing with one hand the authority necessary to do what it requires with the other. I ask the Congress to eliminate Section 601.

Looking to other deficiencies in H.R. 11102, I ask the Congress to remove the authorization for hospital construction grants and to reduce the remaining excessively high authorizations in the bill which are not designed to meet contemporary needs.

The major requirements today are to modernize existing but obsolete hospitals, particularly in the inner cities, and, in the face of skyrocketing medical costs, to expand other types of medical facilities which can serve as more efficient and economic alternatives to hospital care.

Given these factors, I proposed in April, 1969, that the medical facilities construction program be redirected—away from emphasis on additional hospital beds through direct Federal grants-in-aid. Instead, I proposed Federal guarantees for loans obtained in the private sector to modernize obsolete hospitals and construct additional hospital beds where population pressures so require. I further proposed a bloc grant to the States to help construct facilities for ambulatory care, long-term care and rehabilitation—alternatives to hospitalization.

My proposal clearly faced the need to determine priorities in the use of limited Federal dollars. H.R. 11102 avoids facing up to the choice that has to be made. It would add the new program of guaranteed loans on top of an expanded program of grants for construction and modernization of medical facilities. This bill authorizes grants totalling $402 million in 1971; $422 million in 1972 and $437 million in 1973. The public and the medical care industry interpret authorization levels as an appropriation commitment. Yet it is certain that we shall not be able to appropriate such large sums.

The health needs of the nation and the imminent expiration of the existing authorizations make it imperative that the Congress act quickly to correct the shortcomings of this measure. There are many excellent provisions in this bill and I shall be happy to approve a financially responsible bill without delay.

Let no one interpret this veto as in any way lowering the high priority that this Administration has placed on the very important field of health. Health outlays for 1971 will be almost 28 percent higher than in 1969.

We have proposed:

A new program concept of Family Health Insurance which will benefit more than four million poor families as part of the family assistance program.

Substantial increases in high priority areas of biomedical research; such as heart and cancer.

Revision of Medicare to enable the aged to take advantage of the more comprehensive and efficient operation of pre-paid group practice arrangements.

Significant expansion of programs to alleviate the major national problems of alcoholism and drug abuse.

Expansion of family planning programs to provide counselling and assistance to millions of women who want but cannot afford such services.

Major increases in funds to curb air pollution.

In these times there is no room in this massive program—or in any other program—for the kind of needless and misdirected spending represented in H.R. 11102. I again call upon the Congress to join me in holding down government spending to avoid a large budget deficit in Fiscal Year 1971.

RICHARD NIXON.

THE WHITE HOUSE, *June 22, 1970.*

Mr. MILLER. Mr. President, I have no doubt at all that this bill can be quickly reworked by the two Houses so that the mandatory spending provisions will be deleted and this otherwise sound and needed legislation will be passed. It is in this spirit and in view of the foregoing considerations that I shall cast my vote to sustain the veto.

Mr. HATFIELD. Mr. President, I plan to cast my vote to override the veto of the H.R. 11102, the Hill-Burton Hospital Construction Act.

Several hospitals in Oregon have wired me of the straits they will be in if funds are not forthcoming.

This telegram from Dr. Douglas Heath, president of the Southwestern Oregon Medical Society, is typical:

The President's veto of the hospital construction bill for fiscal 1971 is of deep concern to us. As you know this area initiated by the people's vote a plan comprehensive in scope, which is spearheaded by the construction of an acute care hospital. It will be supplemented by other services such as mental health, rehabilitation and neighborhood medical facilities, that will be seriously affected without supplemental Hill-Burton. We urge your continued support of this vital hospital construction bill.

I should like to include for the RECORD sample copies of telegrams I have received from hospitals all over Oregon which bear witness to the need for adequate Federal funding for hospital construction.

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

PORTLAND, OREG.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.:

If veto of Hill-Burton bill permitted to stand, development of needed health facilities throughout Oregon and the Nation will be seriously curtailed. Respectfully urge your support of bill as originally passed by House and Senate.

WERNER W. HANDRICKSON,
Administrator, Holladay Park Hospital.

ALBANY, OREG.

Re Presidential Veto Hill-Burton.

Senator MARK O. HATFIELD,
Washington, D.C.:

The veto of bill H.R. 11102 places the second stage of construction of Albany General Hospital a non-profit community hospital in serious difficulty. We urge you to support a bill that will meet with presidential approval in order that we may continue to plan for the start of construction in October 1970.

ORVAL THOMPSON,
Secretary, Board of Directors,
Albany General Hospital.

PORTLAND, OREG.

Hon. MARK O. HATFIELD,
U.S. Senate,
Washington, D.C.:

At least nine Oregon hospitals have construction programs dependent on Hill-Burton. In event H.R. 11102 veto is not overturned, your support of reasonable modification that would meet presidential approval and short of substantial dollar reduction would be much appreciated.

P. D. FLEISSNER,
Executive Director,
Oregon Association of Hospitals.

CORVALLIS, OREG.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.:

Our hospital has submitted an application for a Hill Burton Grant. Our board of directors after extensive planning feels that the health care of our community will be seriously affected if this grant is not available. Your strong help in this important matter will be a great service not only to our personal appeal but to the health field in general.

GOOD SAMARITAN HOSPITAL.

REEDSPORT, OREG.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.:

DEAR SENATOR HATFIELD: We hope you will use your power to override Mr. Nixon's veto of the Hill Burton appropriations for hospital construction. These moneys are desperately needed if hospitals are to continue to furnish the services our patients are entitled to.

Sincerely,

R. H. SGROWBRIDGE,
Administrator, Lower Umpqua Hospital.

THE DALLAS, OREG.

Senator MARK O. HATFIELD,
Senate Office Building,
Washington, D.C.:

Counting on your vote tomorrow to override President's veto of Hill-Burton funds. Our hospital has application on file at present time for 40-bed addition.

GERRY SMITH,
Administrator, The Dalles General.

COOS BAY, OREG.

Senator MARK O. HATFIELD,
Washington, D.C.:

We need Hill Burton program continuity to complete efforts made thus far to get a regional hospital and comprehensive health care in southwest Oregon. It is less inflationary than eight new destroyers ordered.

BRUCE D. ROOT,
Director Southwestern Oregon
Health Planning Council.

Mr. BAYH. Mr. President, President Nixon warned in July 1969, that the United States faced a "massive crisis" in medical care "unless something is done about it immediately." I applauded this statement. Unfortunately, his recent veto of H.R. 11102—the Hill-Burton hospital construction program—is contradictory to his earlier statement.

The President's words in his June 22 veto statement give cause for deep alarm for all who are concerned about the health of our people. In that statement, he spoke of the bill's "needless and misdirected spending." I would like to emphasize those words: "needless and misdirected."

Is a program which during its 24-year history, has generated $8 billion for the construction of health facilities by a $3.4 billion Federal input "needless and misdirected"? Is a program which has initiated continuous statewide planning for additional hospitals and health facilities and advanced the concept of areawide

planning of hospitals and related facilities in an effort to improve the coordination of health facilities "needless and misdirected"? Is a program which has introduced and continually updated the first guidelines ever provided States to measure their hospital bed facility needs, which has resulted in better distribution of facilities and manpower, which has established minimum standards for health facility construction, and which has provided $45 million in research grants for 232 projects since 1956 "needless and misdirected"? I think not.

Mr. President, the words President Nixon spoke in July 1969, are, I think, truer words. The Nation still faces a massive crisis in medical care unless something is done about it immediately. And the most immediate action we can take, I suggest, is to override the President's veto of the Hill-Burton program.

There is no doubt about this Nation's great needs in medical facilities construction and modernization. We know that we have a definite need for 455,130 acute long-term care beds, for 833 public health centers, for 388 rehabilitative facilities, and for 1,060 outpatient centers. The total estimated cost to fulfill these needs is $16 billion.

I wish we could allocate a full $16 billion for that purpose. But we are not even attempting to do that. The bill we have passed, and which the President has vetoed, provides for only a fraction of this amount—$2.79 billion over 3 years—because that is the maximum we feel we can provide at this time. And of that total, only $1.29 billion was authorized for categorical grants. The rest—$1.5 billion—was authorized for federally guaranteed or direct loans.

How much less can we in good conscience set aside for our Nation's health needs?

The funds appropriated by Congress in H.R. 11102 represent its desire to give more than lipservice to the much needed reordering of priorities. President Nixon says he is concerned about the Nation's medical needs, and yet his administration spent $52 billion on military expenditures last year exclusive of Vietnam—$35.5 billion more than what the Federal Government spent on all areas of health, education and welfare. When one includes expenditures for Vietnam, the disparity between military and domestic expenditures is even greater, of course—a difference of some $65 billion in favor of the military.

This view of America's priorities is not only wrong, it is dangerous to the very foundation of America. We can no longer afford to shore up defenses against our external enemies while permitting our very strength as a people to dissipate. We have an obligation to maintain and, indeed, improve the quality of life for our citizens.

If we are serious about reordering our priorities, now is the time to begin. And here is the place to begin it.

Mr. MATHIAS. The President is both correct and courageous in his position with regard to the mandatory expenditures required by H.R. 11102. The constitutional pattern of a government of separate powers is for the legislature to establish policy and the executive to execute it. When the legislature commands a specific level of expenditures for a single item within a departmental budget without providing compensating resources from which it is to be paid, it deprives the executive of that area of discretion necessary for sound administrative action.

This was also the infirmity of the appropriation for Health, Education, and Welfare which came to the Senate earlier this year. I voted to sustain the President's position in that instance on the ground of the impropriety of the procedure. An absolutely consistent approach to the current problem would dictate that I cast my vote in the same way on this occasion. If this were an appropriation or if we prejudge the appropriation that will follow, then the President might perforce have to deprive programs such as maternal and child health care, consumer programs of the Food and Drug Administration, the air pollution program, solid waste disposal, and programs for day care and for the aging. It is an undesirable precedent for us to deprive the Executive of this flexibility at this stage in the legislative process.

On the other hand, this is not an appropriation; it is an authorization only. The appropriation committees of both Houses of Congress will have an opportunity to consider the problems raised and to ponder the President's reasonable objections to the situation that threatens. The 91st Congress is well past its zenith of activity and cannot afford any further obstacles or delays in finishing its business. The country cannot afford any interruption in its programs of hospital construction and medical research. Our health care is already suffering from serious malnutrition from which it must be rescued and any lapse of Hill-Burton authorization, for example, would contribute to this unhealthy condition and obstruct its cure.

The President's veto has served a salutary purpose. It has marked the danger areas ahead and signaled the President's determination to employ the full powers of his Office to avoid them. Now that Congress is on notice, it can also observe proper precautions to avoid dangers.

Since the President's principal objective seems to have been achieved, and since the delay would be costly, I shall vote to override the veto.

Mr. BELLMON. Mr. President, in vetoing the hospital construction bill, President Nixon stated two principal objections.

He objected because it authorized direct grants under the Hill-Burton program which would be more than $350 million above the President's budget. He also criticized the section of the bill which would require that all the funds appropriated be spent.

Contrary to charges by the opposition, this administration has advocated and supported improved programs of health care, including an overall increase of 28 percent in outlays for such programs as heart and cancer research, family planning, alcoholism and drug abuse and medical aid for the poor. The President's budget called for a substantial increase for the Hill-Burton program, which is widely recognized as being one of the most beneficial and successful programs undertaken by the Federal Government.

Congress, however, has called for the President to go over his budget to the tune of $350 million on this one program, without regard to the overall economic picture. This action has been taken at a time when we are confronted with the necessity to hold down spending to fight inflation, and when we are also facing a deficit for the current fiscal year estimated at between $1.8 billion and $2.2 billion. If trust funds were taken into consideration, the deficit would be much higher.

Mr. President, in the federal system of government, only the Chief Executive has a full view of the overall financial picture. Congress should support the President in his efforts to stop inflation and bring stability to the economy.

Recognizing that there are many worthy programs that need funds, unless we take steps to prevent economic chaos, the appropriation of additional amounts of money will be meaningless. Fueled by the fires of inflation, rising construction and operational costs can quickly eat up any additional funds.

In addition to the threat that increased Federal spending holds for the economy, I find it difficult to vote to override the President's veto for another reason. As a former Governor of Oklahoma, I have an appreciation for the role of the Chief Executive. While a Member of Congress is only one of several who share responsibility for an action, it is the President who has the final and ultimate responsibility for what happens to the country.

In this instance, I feel that the President has made the decision that is in the best interests of the country, and I cannot in good conscience vote to override his judgment in this important area.

Mr. JAVITS. Mr. President, in closing the debate I join the many Senators who have paid tribute to the distinguished Senator from Texas (Mr. YARBOROUGH) who handled the conference on the matter of health in such a splendid manner. He is a very fitting successor—and this is praise—to the fine former Senator from Alabama (Mr. HILL). His leadership and respect for the whole new orientation to the health field have characterized the movement in our country in recent years.

The PRESIDING OFFICER. All time has expired.

The PRESIDING OFFICER (Mr. CRANSTON). The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. A "yea" vote is a vote to override. Is that correct?

The PRESIDING OFFICER. A "yea" vote is a vote to override.

The yeas and nays are automatically called for, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. NELSON), and the Senator from Georgia (Mr. RUSSELL) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), and the Senator from Georgia (Mr. RUSSELL) would each vote "yea".

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "nay."

The yeas and nays resulted—yeas 76, nays 19, as follows:

[No. 197 Leg.]

YEAS—76

Aiken	Gravel	Murphy
Allen	Gurney	Muskie
Anderson	Harris	Pastore
Bayh	Hart	Pearson
Bible	Hartke	Pell
Boggs	Hatfield	Percy
Brooke	Holland	Prouty
Burdick	Hollings	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Jackson	Ribicoff
Cannon	Javits	Schweiker
Case	Jordan, N.C.	Scott
Church	Kennedy	Smith, Ill.
Cook	Long	Sparkman
Cotton	Magnuson	Spong
Cranston	Mansfield	Stennis
Dominick	Mathias	Stevens
Eagleton	McCarthy	Symington
Eastland	McClellan	Talmadge
Ellender	McGee	Tydings
Ervin	McGovern	Williams, N.J.
Fannin	McIntyre	Yarborough
Fong	Metcalf	Young, N. Dak.
Fulbright	Mondale	Young, Ohio
Goodell	Montoya	
Gore	Moss	

NAYS—19

Allott	Goldwater	Saxbe
Baker	Griffin	Smith, Maine
Bellmon	Hansen	Thurmond
Bennett	Hruska	Tower
Cooper	Jordan, Idaho	Williams, Del.
Curtis	Miller	
Dole	Packwood	

NOT VOTING—5

Dodd	Mundt	Russell
Inouye	Nelson	

The PRESIDING OFFICER. On this vote there are 76 yeas and 19 nays. Two-thirds of the Senators present and voting having voted in the affirmative, the bill, on reconsideration, is passed, the objections of the President of the United States to the contrary notwithstanding.

[Applause in the galleries.]

The PRESIDING OFFICER. The Senate and the galleries will be in order. Senators who are retiring will please do so quietly.

Mr. COTTON. Mr. President, I request not only that we have order in the Senate, but I request that the Chair again instruct the galleries as to the Rules of the Senate in respect to the conduct of visitors in the galleries.

The PRESIDING OFFICER. Persons in the galleries will be quiet, and will not indicate their reactions to proceedings on the floor.

Mr. YARBOROUGH. Mr. President, I wish to express my deep personal gratitude to the distinguished senior Senator from New York (Mr. JAVITS) for his more than generous remarks toward me. It has been a great privilege to work with him on this Health Committee for 12 years, as we have worked together in harmony and agreement most of the time, to try to achieve better health care facilities for the American people. The Senator's remarks were more than generous.

I thank all of the members of the Labor and Public Welfare Committee for their diligent work and attendance as members of the Health subcommittee in the long and arduous negotiations with the House of Representatives.

There was great cooperation by both parties; it was a bipartisan approach. I think we have the best hospitalization bill in the history of the American people, and I am grateful. Had it not been for that cooperation, we could not have had this bill.

LEAVE OF ABSENCE

Mr. HOLLAND. Mr. President, I ask unanimous consent that I may be excused from attendance in the Senate for the rest of the evening.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12858) to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16916) making appropriations for the Office of Education for the fiscal year ending June 30, 1971, and for other purposes; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. FLOOD, Mr. NATCHER, Mr. SMITH of Iowa, Mr. HULL, Mr. CASEY, Mr. MAHON, Mr. MICHEL, Mr. SHRIVER, Mrs. REID of Illinois, and Mr. BOW were appointed managers on the part of the House at the conference.

The message further announced that the House had passed a bill (H.R. 17825) to amend the Omnibus Crime Control Safe Streets Act of 1968, and for other purposes, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 17825) to amend the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes, was read twice by its title and referred to the Committee on the Judiciary.

THE POSTAL REORGANIZATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 913, S. 3842.

The PRESIDING OFFICER. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. The bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration. The Senate will be in order.

The bill is open to amendment. The Senator from Wyoming is recognized.

PRIVILEGE OF THE FLOOR

Mr. DOMINICK. Mr. President, I ask unanimous consent that my staff member, Mr. Charles N. Woodruff, be allowed to remain on the floor during further proceedings on this bill.

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

PROCEDURE

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

Mr. McGEE. I yield.

Mr. MANSFIELD. Mr. President, if we can have the attention of the Senate, I wonder whether the manager of the bill, the chairman of the Committee on Post Office and Civil Service, and the ranking minority member of that committee can give the Senate any idea as to what may be forthcoming in the way of amendments, in time limitations, and the like, so that we could govern ourselves accordingly.

Mr. McGEE. Mr. President, we are interested in trying to move along as rapidly as the body is willing this evening on the pending amendments. We are not sure that all amendments that Senators have in mind have been made known to us yet for estimate purposes on the time. We have a 1-hour time limit by unanimous consent on all amendments except the Fannin amendment, which involves the right-to-work issue. We would hope that with this limitation and with an understanding that we have discussed with the Senator from Arizona, it would still be possible to go through all the amendments and to final passage late this evening. A number of Members have expressed an interest in that, if it becomes possible. Obviously, many things stand in the way of it.

But that would be the intention of the floor managers of the bill, if that is the will of the Senate. We intend to move right along this evening with a minimum of interruption, in the hope that we might finish the bill tonight.

Mr. SCOTT. And with maximum relevancy.

Mr. McGEE. With the Senator from Pennsylvania's editorial comment.

ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES FROM WEDNESDAY, JULY 1, TO MONDAY, JULY 6, 1970

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a mes-

sage from the House of Representatives on House Concurrent Resolution 671.

The Presiding Officer laid before the Senate House Concurrent Resolution 671, which was read as follows:

Resolved by the House of Representatives (the Senate concurring), That when the House adjourns on Wednesday, July 1, 1970, it stand adjourned until 12 o'clock meridian, Monday, July 6, 1970.

Mr. MANSFIELD. Mr. President, I ask unanimous consent for the immediate consideration of the concurrent resolution.

The PRESIDING OFFICER. Is there objection?

There being no objection, the concurrent resolution (H. Con. Res. 671) was considered and agreed to.

THE POSTAL REORGANIZATION ACT

The Senate resumed the consideration of the bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

Mr. McGEE. Mr. President, I yield to the Senator from Kentucky.

PRIVILEGE OF THE FLOOR

Mr. COOK. I ask unanimous consent to have a member of my staff on the floor during the course of the proceedings on my amendment.

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

Mr. McGEE. I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I ask unanimous consent that a member of my staff, Mr. W. R. Haley, remain on the floor during these proceedings.

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

Mr. McGEE. Mr. President, it is my understanding that the Senator from Kentucky has an amendment to the bill that he would like to submit at this time.

Mr. COOK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read the amendment as follows:

Add a new paragraph (6) to subsection 510 (b) to read as follows:

"(6) title VII of the Civil Rights Act of 1964, 78 Stat. 253, et seq., notwithstanding section 701 (b) (1) of said Title VII."

Mr. McGEE. Mr. President, I ask for the yeas and the nays on the amendment.

The yeas and nays were ordered.

Mr. COOK. Mr. President, S. 3842, as reported by the committee, has an extremely serious defect. This bill does not insure implementation of the Federal policy prohibiting discrimination in employment on the basis of race, color, religion, sex or national origin. While section 510 of S. 3842 makes applicable the policy on nondiscrimination in these areas via 5 U.S.C. 7151, it also states that this shall not apply to the postal service "unless expressly made so applicable"; 5 U.S.C. 7151 provides that the President shall use his existing authority "to carry out" this policy. Therefore, Executive Order 11478 dealing with equal employment opportunity in the Federal Government, does not as a matter of positive law, protect postal service employees because it is not made "expressly applicable" to the postal service as required under S. 3842. In effect the civil service regulations, such as those involving inspections, grievance procedures, and appeals are denied to postal employees.

I do not believe that the Congress intends to leave this large gap in employee protection to collective bargaining, or to administrative discretion, administrative timing and administrative action. It is my opinion that Congress should clearly decree, leaving no room for doubt, that employees of the postal service will have the same rights, spelled out both in law and regulations, as other classes of employees have against employment discrimination. I propose, therefore, that section 510 of S. 3842 be amended to give postal service employees the equal employment opportunity rights provided by title VII of the Civil Rights Act of 1964, that employees in private industry have benefited from since 1964.

Beside its application to racial discrimination, one of the primary reasons for this proposed amendment is to prohibit discrimination in classification as it applies to many of the women postmistresses, who carry high civil service ratings within the postal system. It would eliminate in this independent postal service the idea of negotiation or arbitration of equal rights for male and female employees within the new postal system.

I would hope, for those who have had the experience of arbitration, that they would not want to arbitrate a matter dealing with discrimination as applied to male and female employees of the new postal service.

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

Mr. COOK. I yield.

Mr. MURPHY. Has the Senator any idea or evidence that this was written this way in the bill with purpose or whether it was—as I believe—just an oversight which, hopefully, the Senator's amendment will correct?

Mr. COOK. I must say to the Senator that I hope it was an oversight. When I submitted it to them, they said there might be some administrative problems. But if there are some administrative problems, where they want to discriminate against women as against the position of men in the Post Office Department, then they ought to be able to solve them very easily.

Mr. MURPHY. In other words, we should write the legislation the way we believe it should be and let them worry about the administrative problems when and if they occur.

Mr. COOK. Yes.

PRIVILEGE OF THE FLOOR

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

Mr. COOK. I yield.

Mr. ALLOTT. Mr. President, I ask unanimous consent that Mr. Dale Schaefer, my staff assistant, may be on the floor during the course of these proceedings.

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

Mr. GRIFFIN. Mr. President, I ask unanimous consent that my staff assistant may remain on the floor.

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

Mr. COOK. Mr. President, have the yeas and the nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. McGEE. Mr. President, I want to add to the remarks of the Senator from Kentucky that the reason why this was not in the original bill is that a technical question was raised about the new collective bargaining processes and how it might affect postal employees and the freedom to bargain. We have had consultations on the matter, and we believe that there is merit in the proposal. But in order to legitimatize it, we felt, likewise, that there should be a rollcall vote on it at this time. Therefore, I add my plaudits to the efforts of the Senator to achieve this goal.

Wyoming happens to be a State which has pioneered in women's suffrage and equal rights for women. It is an elementary, fundamental principle in our outlook there in the West. I intend to support this declaration of policy on the part of the Senator from Kentucky.

Mr. FONG. Mr. President, I join my distinguished chairman in saying that this is a very fine amendment and should be agreed to.

The PRESIDING OFFICER. Is all time now yielded back?

Mr. COOK. Mr. President, I yield back the remainder of my time.

Mr. McGEE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CRANSTON). All time on the amendment has now been yielded back. The question is on agreeing to the amendment of the Senator from Kentucky.

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 Connecticut (Mr. DODD), the Senator from Hawaii (Mr. INOUYE), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Minnesota (Mr. MCCARTHY), and the Senator from Montana (Mr. METCALF) are necessarily absent.

Mr. GRIFFIN. I announce that the Senator from South Dakota (Mr. MUNDT) is absent because of illness and, if present and voting, would vote "yea."

The result was announced—yeas 93, nays 0, as follows:

[No. 198 Leg.]

YEAS—93

Aiken	Cook	Gravel
Allen	Cooper	Griffin
Allott	Cotton	Gurney
Anderson	Cranston	Hansen
Baker	Curtis	Harris
Bayh	Dole	Hart
Bellmon	Dominick	Hartke
Bennett	Eagleton	Hatfield
Bible	Eastland	Holland
Boggs	Ellender	Hollings
Brooke	Ervin	Hruska
Burdick	Fannin	Hughes
Byrd, Va.	Fong	Jackson
Byrd, W. Va.	Fulbright	Javits
Cannon	Goldwater	Jordan, N.C.
Case	Goodell	Jordan, Idaho
Church	Gore	Kennedy

Long	Packwood	Sparkman
Magnuson	Pastore	Spong
Mansfield	Pearson	Stennis
Mathias	Pell	Stevens
McClellan	Percy	Symington
McGee	Prouty	Talmadge
McGovern	Proxmire	Thurmond
McIntyre	Randolph	Tower
Miller	Ribicoff	Tydings
Mondale	Saxbe	Williams, N.J.
Montoya	Schweiker	Williams, Del.
Moss	Scott	Yarborough
Murphy	Smith, Maine	Young, N. Dak.
Muskie	Smith, Ill.	Young, Ohio

NAYS—0

NOT VOTING—7

Dodd	Metcalf	Russell
Inouye	Mundt	
McCarthy	Nelson	

So Mr. Cook's amendment was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee.

Mr. BAKER. Mr. President, I yield to the Senator from Illinois.

PRIVILEGE OF THE FLOOR

Mr. PERCY. Mr. President, I ask unanimous consent that Roberta Hilman, my legislative assistant, have the privilege of the floor during the consideration of this measure. I am leaving for a NATO meeting at Brussels.

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

PRIVILEGE OF THE FLOOR

Mr. JAVITS. Mr. President, I ask unanimous consent that Frank Cummings, my administrative assistant, be permitted the privilege of the floor of the Senate during the discussions on the measure.

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

Mr. BAKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be stated.

The bill clerk proceeded to state the amendment.

Mr. JAVITS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. BAKER. I yield.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. CRANSTON). The Senator will state it.

Mr. JAVITS. Mr. President, is it a fact that if the substitute is amended, no amendment to it will lie after its adoption?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. And is it a fact that no amendment may be proposed to the substitute until all time has expired for it under the unanimous consent agreement.

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. Mr. President, I wish to serve notice that I will offer an amendment.

Mr. BAKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

The amendment ordered to be printed in the RECORD is as follows:

TITLE I—POSTAL REORGANIZATION

POSTAL POLICY

SEC. 101. (a) The postal service of the United States shall be operated as a basic and fundamental communications service provided to the people by the Government of the United States. The United States Postal Service established under section 102 of this title shall have as its basic function the obligation to provide a postal system adapted to the needs of all the people and designed to bind the Nation together by facilitating the prompt, reliable, efficient and economical transmittal of personal, educational, literary, and business communications. It shall provide such service to patrons in all areas and shall render public services to all communities. The costs of establishing or maintaining the postal service shall not be apportioned in such a way as to impair the overall value of such service to the people.

(b) As an employer, the Postal Service shall achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in major industries in the private sector of the economy of the United States. It shall place particular emphasis upon opportunities for career advancement for all officers and employees and the achievement of worthwhile and satisfying careers in the service of the United States.

(c) Postal rates shall be established to apportion the costs of all postal operations to all users of the mail on a fair and equitable basis.

(d) In determining all policies for postal service, the Postal Service shall give the highest consideration to the requirement for the most expeditious collection, transportation, and delivery of important letter mail.

(e) In selecting modes of transportation, the Postal Service shall give highest consideration to the expeditious and economical delivery of mail and a fair and equitable distribution of mail business to carriers providing similar modes of transportation services. Modern methods of transporting mail by containerization and programs designed to achieve overnight transportation of important letter mail to all parts of the Nation shall be a primary goal of postal operations.

(f) In planning and building new postal facilities, the Postal Service shall emphasize the need for plants and equipment designed to create desirable working conditions for officers and employees, a maximum degree of convenience for efficient postal service, proper access to existing and future air and surface transportation facilities, and control of costs.

REVISION OF TITLE 39, UNITED STATES CODE

SEC. 102. Title 39, United States Code, is revised and reenacted and the sections thereof may be cited as "39 U.S.C. § ", as follows:

"TITLE 39.—THE POSTAL SERVICE

Chapter	Sec.
"1. GENERAL PROVISIONS	101
"2. PERSONNEL	201
"4. SERVICES	401
"6. MAIL MATTER	601
"8. TRANSPORTATION OF MAILS	801
"10. FINANCE	1001
"12. RATES AND RATEMAKING	1201
"14. PRIVATE CARRIAGE OF LETTERS	1401
"16. MISCELLANEOUS	1601

"Chapter 1.—GENERAL PROVISIONS

"Sec.
"101. Definitions.
"102. United States Postal Service.
"103. Postmaster General and Deputy Postmaster General.
"104. Seal.
"105. Assistant Postmasters General.
"106. Judicial Officer.
"107. Delegation of Authority.
"108. The Commission on Postal Costs and Revenues.
"109. Procedures of the Commission.
"110. Advisory Council.
"111. General Powers of the Postal Service.
"112. Cooperation with other Government agencies.
"113. Suits by and against the Postal Service.
"114. Application of other laws.
"115. Annual reports.
"116. Reservation of powers.
"117. Labor protection under Postal Service leases.

"§ 101. Definittions.

"As used in this title—

" 'Postal Service' means the United States Postal Service established by section 102 of this title.

" 'Postmaster General' means the operating head of the Postal Service as specified in section 103 of this title.

" 'Commission' means the Commission on Postal Costs and Revenues established by section 108 of this title.

" 'Commissioners' means the members of the Commission on Postal Costs and Revenues.

" 'Postal Rate Board' and 'Board' mean the Postal Rate Board established by section 1251 of this title.

" 'Board members' means the members of the Postal Rate Board.

"The Post Office Department is reorganized as an independent establishment in the executive branch of the Government known as the United States Postal Service.

"§ 103. Postmaster General and Deputy Post master General

"The operating head of the Postal Service is a Postmaster General appointed as specified in subsection (c)(1) of section 108 of this title. Except as otherwise provided by law, the Postmaster General is vested with the functions of all subordinate officers and agencies of the Postal Service. The alternate operating head of the Postal Service is a Deputy Postmaster General appointed as specified in subsection (c)(2) of section 108 of this title.

"§ 104. Seal

"The seal of the Postal Service, filed by the Postmaster General in the office of the Secretary of State, which shall be judicially noticed, shall be affixed to all commissions of officers of the Postal Service and used to authenticate records of the Postal Service.

"§ 105. Assistant Postmasters General

"The Postmaster General shall appoint such number of assistant postmasters general as he considers appropriate, one of whom, to be designated as the General Counsel, shall be the legal officer of the Postal Service.

"§ 106. Judicial Officer

"A Judicial Officer, appointed by the Commission, shall perform such quasi-judicial duties, not inconsistent with chapter 12 of this title, as the Commission may designate. He shall be the agency for the purposes of the requirements of chapter 5 of title 5, to the extent that functions are delegated to him by the Commission.

"§ 107. Delegation of Authority

"The Postmaster General may delegate to any subordinate officer, employee, or agency of the Postal Service, with or without power of redelegation, such as the functions vested in him and, except as otherwise provided in this title, in any other officer or employee of the Postal Service as he deems appropriate.

"§ 108. The Commission on Postal Costs and Revenues

"(a) A Commission on Postal Costs and Revenues is established, consisting of eleven members as provided for in this section.

"(b)(1) The President, by and with the advice and consent of the Senate, shall ap-

point nine members of the Commission. Not more than five presidentially appointed Commissioners shall be from the same political party. The President may remove Commissioners appointed under this paragraph only for inefficiency, neglect of duty, or malfeasance in office. The Commissioners shall be chosen to represent the public interest generally and not as representatives of specific interests connected with the Postal Service.

"(2) The terms of the presidentially appointed Commissioners shall be nine years except that—

"(A) the terms of nine Commissioners first taking office shall expire as designated by the President at the time of the appointment, one at the end of one year, one at the end of two years, one at the end of three years, one at the end of four years, one at the end of five years, one at the end of six years, one at the end of seven years, one at the end of eight years, and one at the end of nine years following the appointment of the first of them; and

"(B) any Commissioner appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

"(c) (1) The presidentially appointed Commissioners shall appoint and have discretionary power to remove a tenth member of the Commission who shall serve as Postmaster General. The Postmaster General, who shall have such terms as may be fixed by the presidentially appointed Commissioners, shall be a voting member of the Commission except as otherwise provided in this title.

"(2) The presidentially appointed Commissioners and the Postmaster General shall appoint and shall have discretionary power to remove an additional member of the Commission who shall serve as Deputy Postmaster General for such term as the presidentially appointed Commissioners and the Postmaster General may fix. The Deputy Postmaster General shall be a voting member of the Commission except as otherwise provided in this title.

"(d) Except as otherwise provided in this section, each presidentially appointed Commissioner shall receive compensation at the rate of $10,000 per annum and $300 for each meeting of the Commission he attends, up to a maximum of 30 meetings per year. Their compensation shall be subject to adjustment under the provisions of chapter 11, title 2. In addition, they shall be reimbursed for necessary travel and subsistence expense incurred in attending the meetings of the Commission.

"(e) (1) The presidentially appointed Commissioners shall fix the rates of compensation of the Postmaster General and Deputy Postmaster General.

"(2) The Commission shall direct and control the expenditures of the Postal Service, review the practices and policies of the Postal Service, and perform other functions and duties imposed on it by this title.

"(f) Vacancies in the Commission, as long as there are sufficient members to form a quorum, shall not impair the powers of the Commission under this title.

"(g) The Commission shall act upon majority vote of those members who are present, and any six members present shall constitute a quorum for the transaction of business by the Commission, except—

"(1) in the appointment or removal of the Postmaster General, and in setting the compensation of the Postmaster General and Deputy Postmaster General, a favorable vote of an absolute majority of the presidentially appointed Commissioners in office shall be required;

"(2) in the appointment or removal of the Deputy Postmaster General, a favorable vote of an absolute majority of the members in office from among the members serving as Postmaster General and the presidentially appointed Commissioners shall be required; and

"(3) as otherwise provide in this title.

"(h) No officer or employee of the United States may concurrently serve as a member of the Commission, but the presidentially appointed Commissioners may hold any other non-Federal office or employment not inconsistent with their duties to the Postal Service.

"§109. Procedures of the Commission

"The Commission may delegate any of its powers to officers and employees of the Postal Service in accordance with rules or regulations adopted by it. The Commission may establish such committees of the Commission, and delegate such powers to any committee, as the Commission determines appropriate to carry out its functions and duties. Delegations to officers, employees, or committees shall not be inconsistent with other provisions of this title; such delegations shall not relieve the Commission of full responsibility for the carrying out of its duties and functions; and any such delegations shall be revocable by the Commission in its exclusive judgment.

"§ 110. Advisory Council

"(a) There shall be a Postal Service Advisory Council, of which the Postmaster General shall be the Chairman and the Deputy Postmaster General shall be the Vice Chairman. The Advisory Council shall have eleven additional members appointed by the President. He shall appoint as such members (1) four persons from among persons nominated by those labor organizations recognized as collective-bargaining representatives for employees of the Postal Service in one or more collective-bargaining units, (2) four persons as representatives of major mail users (including as major mail users mailers of moderate amounts of personal first class mail), and (3) three persons as representatives of the public at large. All such members shall be appointed for terms of two years except that, of those first appointed, two of the members representative of labor organizations and two of the members representative of such major mail users and one member representing the public at large shall be appointed for one year terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

"(b) The Commission and the Postmaster General shall consult with and receive the advice of the Advisory Council regarding postal rates and services and compensation of employees.

"(c) The members of the Council representative of the public at large shall receive for each meeting of the Board compensation at the daily equivalent of the salary provided by law for level V of the Executive Schedule. All members of the Coumcil shall be reimbursed for necessary travel and subsistence expense in attending meetings of the Council.

"§ 111. General powers of the Postal Service

"The Postal Service shall have the following general powers:

"(1) to sue and be sued in its official name;

"(2) to adopt, amend, and repeal such rules and regulations as it deems necessary to accomplish the objectives of this title;

"(3) to enter into and perform contracts, executive instruments, and determine the character of, and necessity for, its expenditures;

"(4) to determine and keep is own system of accounts and the forms and contents of its contracts and other business documents, except as otherwise provided in this title;

"(5) to acquire in any lawful manner such personal or real property, or any interest therein, as it deems necessary or convenient in the transaction of its business, and to hold, maintain, sell, lease, or otherwise dispose of such property or any interest therein; and to provide services in connection therewith and charge therefor;

"(6) to construct, operate, lease, and maintain buildings, facilities, equipment, and other improvements on any property owned or controlled by it, including, without limitation, any property or interest therein transferred to it under section 1002 of this title;

"(7) to accept gifts or donations of services or property, real or personal, as it deems necessary or convenient in the transaction of its business;

"(8) to settle and compromise claims by or against it;

"(9) to exercise, in the name of the United States, the right of eminent domain for the furtherance of its official purposes; and to have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates; and

"(10) to have all other powers incidental, necessary, or appropriate to the carrying on of its functions or the exercise of its specific powers.

"§ 112. Cooperation with other Government agencies

"Executive agencies and independent establishments within the meaning of sections 104 and 105 of title 5 and the Government Printing Office are authorized to furnish goods, property, both real and personal, and personal and nonpersonal services to the Postal Service, and the Postal Service is authorized to furnish such goods, property, and services to them. The furnishing of goods, property, and services pursuant to this section shall be under such terms and conditions, including reimbursability, as the Postmaster General and the head of the agency or establishment concerned shall deem appropriate.

"§ 113. Suits by and against the Postal Service

"(a) The United States district courts shall have original but not exclusive jurisdiction over all actions brought by or against the Postal Service. Any action brought in a State court to which the Postal Service is a party may be removed to the United States district court under the provisions of chapter 89 of title 28.

"(b) The provisions of title 28 relating to service of process, venue, and limitations of time for bringing action in suits in which the United States, its officers or employees are parties, and the rules of procedure adopted under title 28 for suits in which the United States, its officers or employees are parties, shall apply in like manner to suits in which the Postal Service, its officers, or employees are parties.

"(c) The provisions of chapter 171 and all other provisions of title 28 relating to tort claims shall apply to tort claims arising out of activities of the Postal Service.

"(d) The Department of Justice shall furnish the Postal Service such legal representation as it may require pursuant to section 112 of this title, but with the prior consent of the Attorney General the Postal Service may employ attorneys by contract or otherwise to conduct litigation brought by or against the Postal Service or its officers or employees in matters affecting the Postal Service.

"§ 114. Application of other laws

"No Federal law dealing with public, United States or Federal contracts, property, works, officers, employees, or funds, including the provisions of chapters 5 and 7 of title 5, shall apply to the exercise of the powers of the Postal Service except as otherwise provided in this title and except insofar as such laws remain in force as rules or regulations of the Postal Service, but the following pro-

visions of law shall apply to the Postal Service:

"(1) sections 3333 and 5532, and chapters 71 (Employee Policies) and 73 (Suitability, Security, and Conduct of Employees) of title 5 except that no regulation issued pursuant to such chapters shall apply to the Postal Service unless expressly made so applicable;

"(2) all provisions of title 18 dealing with the Postal Service, the mails and Government officers or employees;

"(3) the following provisions of title 40:

"sections 258a–258e (condemnation proceedings);

"sections 270a–270e (known as the Miller Act);

"sections 276a–276a–7 (known as the Davis-Bacon Act);

"section 276c (wage payments of certain contractors);

"chapter 5 (the Contract Work Hours Standards Act); and

"chapter 15 (the Government Losses in Shipment Act);

"(4) the following provisions of title 41, sections 35–45 (the Walsh-Healey Act), chapter 6 (the Service Contract Act of 1965); and

"(5) section 2000d, 2000d–1—2000d–4 of title 42 (title VI, the Civil Rights Act of 1964).

"(6) title VII of the Civil Rights Act of 1964, 78 Stat. 253, et seq., notwithstanding section 701(b)(1) of said title VII."

"§ 115. Annual reports

"The Postmaster General shall render an annual report to the Commission concerning the operations of the Postal Service under this title. Upon approval thereof, or after making such changes as it considers appropriate, the Commission shall transmit such report to the President and the Congress.

"§ 116. Reservation of powers

"Congress reserves the power to alter, amend or repeal any or all of the sections of this title, but no such alteration, amendment or repeal shall operate to impair the obligation of any contract made by the Postal Service under any power conferred by this title.

"§ 117. Labor protection under Postal Service leases

"(a) A lease agreement by the Postal Service for rent of net interior space in excess of five thousand square feet in any building or facility, or part of a building or facility, to be occupied for purposes of the Postal Service shall include a provision that all laborers and mechanics employed in the construction, modification, alteration, repair, painting, decoration, or other improvement of the building or space covered by the agreement, or improvement at the site of such building or facility, shall be paid wages at not less than those prevailing for similar work in the locality as determined by the Secretary of Labor under section 276a of title 40, relating to section 1 of the Davis-Bacon Act.

"(b) The Postal Service and functions of the Secretary of Labor with respect to labor standards enforcement under Reorganization Plan Numbered 14 of 1950, title 5, appendix, and regulations for contractors and subcontractors under section 276c of title 40, shall apply to the work under subsection (a) of this section.

"(c) Subsection (b) of this section shall not be construed to give the Secretary of Labor authority to direct the cancellation of the lease agreement referred to in subsection (a) of this section.

"Chapter 2.—PERSONNEL

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"201. Appointments and promotions.
"202. Oath of office.
"203. Employees of the Post Office Department.
"204. Retirement rights.
"205. Policy on compensation and benefits.
"206. Terms of employment.
"207. Prohibition of political influence.
"208. Organizations of supervisory personnel.
"209. Seniority of rural carriers.

"SUBCHAPTER II—EMPLOYEE-MANAGEMENT RELATIONS

"221. Definition.
"222. Applicability of National Labor Relations Act.
"223. Bargaining units.
"224. Recognition of labor organizations.
"225. Elections.
"226. Deductions of dues.
"227. Collective-bargaining agreements.
"228. Labor disputes.
"229. Suits.
"230. Labor-management reporting and disclosure.

"SUBCHAPTER I—GENERAL PROVISIONS

"§ 201. Appointments and promotions

"(a) The Postal Service may appoint and promote such officers, attorneys, agents, and employees and vest them with such powers and duties as it deems necessary. Officers and employees of the Postal Service shall be in the postal career service, which shall be a part of the civil service. Such appointments and promotions shall be in accordance with procedures established by the Postal Service. The Postal Service shall establish procedures, subject to subchapter II of this chapter, to assure its employees of meaningful opportunities for promotion and career development and to assure its employees full protection of their employment rights by guaranteeing them an opportunity for a fair hearing on adverse actions, with representatives of their own choosing. Subject to subsection (b) of this section, the provisions of chapter 75 of title 5 shall apply to employees of the Postal Service except to the extent of any inconsistency with—

"(1) the provisions of any collective bargaining agreement negotiated on behalf of and applicable to them, or

"(2) procedures established by the Postal Service and approved by the Civil Service Commission.

"(b) The Postal Service may hire executives on long-term employment contracts when necessary. Notwithstanding any such contract, the Postal Service may at its discretion and at any time remove any executive employee. Removal, however, shall be without prejudice to the contract rights of the person removed.

"(c)(1) Notwithstanding any other provision of this title or any provision of a collective bargaining agreement negotiated under subchapter II of this chapter, the provisions of title 5 relating to a 'preference eligible', as that term is defined under section 2108(3) of title 5, as those provisions may from time to time be amended, shall apply to an applicant for appointment in the Postal Service in the same manner and under the same conditions required for an applicant for appointment to a position in the competitive service under title 5 and shall apply to an employee of the Postal Service in the same manner and under the same conditions as if the employee were in the competitive service and subject to the provisions of title 5. Without compromising its basic mission, the Postal Service shall pursue an employment policy designed to extend opportunity to the disadvantaged and the handicapped.

"(2) Employees of the Postal Service shall be covered by subchapter I of chapter 81 of title 5, relating to compensation for work injuries, as that subchapter may from time to time be amended.

"(d) Notwithstanding sections 5533, 5535, and 5536 of title 5, and any other provision of law, an officer, agent, or employee of the United States Government, is eligible to serve and receive the compensation both as such officer, agent, or employee and as officer, agent, or employee of the Postal Service other than as a member of the Commission.

"§ 202. Oath of office

"Before entering upon their duties and before receiving any salary, the members of the Commission and all persons employed by the Postal Service shall take and subscribe the following oath or affirmation:

"I ————, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter."

A person authorized to administer oaths by by the laws of the United States, including section 2903 of title 5, or of a State or territory, or an officer, civil or military, holding a commission under the United States or any officer or employee of the Postal Service designated by the Postmaster General may administer and certify the oath or affirmation.

"§ 203. Employees of the Post Office Department

"(a) Employees of the Post Office Department on the effective date of this section shall remain employees of the Postal Service under the terms of this title. The provisions of this section shall be inapplicable to the Postmaster General, the Deputy Postmaster General, the Assistant Postmasters General and General Counsel of the Post Office Department, but nothing in this section shall make such persons ineligible for employment by the Postal Service.

"(b) Sick and annual leave, and compensatory time of such employees whether accrued prior to or after commencement of operations of the Postal Service shall be obligations of the Postal Service pursuant to the provisions of this chapter.

"(c) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Post Office Department or the executive branch of the Government, will continue to apply to employees of the Postal Service, until changed by the Postal Service, in accordance with subchapter II of this chapter. Subject to the provisions of section 206 of this title, the provisions of subchapter I of chapter 85, and chapters 87 and 89 of title 5, shall apply to employees of the Postal Service, unless varied, added to, or substituted for pursuant to this subsection. No variation, addition, or substitution with respect to fringe benefits shall result in a program of fringe benefits which on the whole is less favorable to the employees than fringe benefits in effect on the effective date of this section, and as to employees for whom there is a collective-bargaining representative no such variation, addition or substitution shall be made except by agreement between the collective-bargaining representative and the Postal Service.

"(d) Any employee of the United States Post Office Department on the effective date of this section shall be eligible to transfer, at the same or a higher grade, to any position within the United States Government which is open and for which such employee shall be qualified. The Postal Service shall cooperate with the Civil Service Commission in placing such employees.

"§ 204. Retirement rights

"Employees of the Postal Service shall be covered by chapter 83 of title 5 relating to the civil service retirement program, as that chapter may from time to time be amended. The Postal Service shall withhold from pay and shall pay into the Civil Service Retirement and Disability Fund the amount specified in chapter 83 of title 5. The Postal Service upon request by the Civil Service Commission, but not less frequently than annually, shall pay to the Civil Service Com-

mission the costs reasonably related to administration or fund activities for employees of the Postal Service.

"§ 205. Policy on compensation and benefits

"It shall be the policy of the Postal Service to maintain compensation and benefits for all employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. Such policy may be applied on an area basis, in which event the Postal Service, consistent with subchapter II of this chapter and collective bargaining agreements, shall define the boundaries of any such wage area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees. It shall be the policy of the Postal Service to pay cost-of-living allowances to employees stationed outside the continental United States or in Alaska which shall be not less than the cost-of-living allowances generally applicable under section 5941 of title 5 of the United States Code for employees stationed in the same area. It shall be the policy of the Postal Service to provide adequate and reasonable differentials in rates of pay between employees in the clerk and carrier grades in the line work force and supervisory and managerial employees.

"§ 206. Terms of employment

"(a) Compensation, benefits, and other terms and conditions of employment shall be determined by the Postal Service, consistent with subchapter II of this chapter, but no officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule.

"(b) The Postal Service shall have the right consistent with subchapter II of this chapter and applicable laws, regulations, and collective-bargaining agreements—

"(1) to direct employees of the Postal Service in the performance of official duties;

"(2) to hire, promote, transfer, assign and retain employees in positions within the Postal Service, and to suspend, demote, discharge, or take other disciplinary action against employees;

"(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

"(4) to maintain the efficiency of the operations entrusted to it;

"(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

"(6) to take whatever actions may be necessary to carry out its mission in situations of emergency.

"(c) No individual who is a member of a religious sect, or division thereof, the established and traditional tenets or teaching of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment if such individual pays to the Treasurer of the United States a sum equal to the initiation fees and periodic dues uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the employee unless said individual and said labor organization mutually agree upon some other condition of employment.

"§ 207. Political influence; prohibition

"(a) Notwithstanding any other provision of law, but subject to subsection (e) of this section, each appointment, promotion, assignment, transfer, or designation, interim or otherwise, of an officer or employee in the Postal Service (except members of the Commission) shall be made without regard to any recommendation or statement, oral, or written, with respect to any person who requests, or is under consideration for such appointment, promotion, assignment, transfer, or designation made by—

"(1) any Member of the Senate or House of Representatives (including the Resident Commissioner from Puerto Rico);

"(2) any elected official of the government of any State (including the Commonwealth of Puerto Rico) or of any county, city, or other political subdivision of such State or Commonwealth;

"(3) any official of a national political party or of a political party of any State (including the Commonwealth of Puerto Rico), county, city, or other subdivision of such State or Commonwealth; or

"(4) any other individual or organization.

"(b) Notwithstanding any other provision of law but subject to subsection (e) of this section, a person or organization referred to in subparagraph (1), (2), (3), or (4) of subsection (a) of this section is hereby prohibited from making or transmitting to the Postmaster General, or to any other officer or employee of the Federal Government, any recommendation or statement, oral or written, with respect to any person who requests, or is under consideration for any such appointment, promotion, assignment, transfer, or designation. The Postal Service and any officer or employee of the Federal Government, subject to subsection (e) of this section—

"(1) shall not solicit, request, consider, or accept any such recommendation or statement; and

"(2) shall return any such recommendation or statement, if written, received by him, appropriately marked as in violation of this section, to the person or organization making or transmitting the same.

"(c) A person who requests, or is under consideration for any such appointment, promotion, assignment, transfer, or designation is hereby prohibited from requesting or soliciting any such recommendation or statement from any person or organization within the purview of subparagraph (1), (2), (3), or (4) of subsection (a) of this section. Any such person making such solicitation or request, knowing the same to be in violation of this subsection, is disqualified for the appointment, promotion, assignment, transfer, or designation concerned.

"(d) Each employment form of the Postal Service used in connection with any such appointment, promotion, assignment, transfer, or designation shall contain appropriate language in boldface type informing all persons concerned of the provisions of this section. During the time any such appointment, promotion, assignment, transfer, or designation is under consideration, appropriate notice of the provisions of this section printed in boldface type shall be posted in the post office concerned.

"(e) This section shall not be held or considered to prohibit—

"(1) the solicitation, acceptance, and consideration by the Postal Service or any authorized officer or employee of the Federal Government, or

"(2) the furnishing and transmission to the Postal Service or such authorized officer or employee by any other individual or organization

of any statement with respect to a person who requests, or is under consideration for, appointment, promotion, assignment, transfer, or designation, if—

"(A) the statement is furnished pursuant to a request or requirement of the Postal Service and consists solely of evaluation of the work performance, ability, aptitude, and general qualifications of an employee in the Postal Service who is under consideration for appointment, promotion, assignment, transfer, or designation;

"(B) the statement is furnished by an individual or organization referred to in subparagraph (4) of subsection (a) of this section pursuant to a request made by an authorized representative of the Federal Government solely in order to determine whether the person who requests, or is under consideration for, appointment, promotion, assignment, transfer, or designation meets the loyalty, suitability, and character requirements for employment with the Federal Government; or

"(C) the statement is furnished by a former employer of the person who requests, or is under consideration for, appointment, promotion, assignment, transfer, or designation, pursuant to a request of the Postal Service, and consists solely of an evaluation of the work performance, ability, aptitude, and general qualifications of such person during his employment with such former employer.

"(f) The provisions of this section shall not have any effect on the right of an employee to petition Congress as authorized by section 7102 of title 5.

"§ 208. Organizations of supervisory personnel

"(a) The Postal Service shall provide a program for consultation with recognized organizations of officers and employees of the Postal Service other than those subject to collective-bargaining agreements under subchapter II of chapter 2 of this title. Such organizations upon presentation of evidence satisfactory to the Postmaster General that their membership constitutes a substantial percentage of all officers and employees in their occupations or positions, shall be entitled to consult directly with respect to pay policies and schedules, fringe benefit programs, and other programs relating to employees in such occupations.

"(b) The Postal Service shall recognize an organization of supervisors that represents a majority of supervisory personnel. The organization of supervisors may include officers and employees who are not subject to collective-bargaining agreements under subchapter II of chapter 2 of this title. The organization shall have the right to participate directly in consultation with the Postal Service concerning matters affecting the responsibilities and conditions of employment of supervisory personnel.

"(c) It shall be the policy of the Postal Service to provide compensation, working conditions, and career opportunities that will assure the attraction and retention of qualified and capable supervisory personnel and to establish and continuously maintain a program for all supervisory personnel that reflects the essential importance of a well-trained and well-motivated supervisory force to the effectiveness of postal operations and that promotes the leadership status of the supervisor in respect to rank-and-file employees, recognizing that the supervisor's role in primary level management is particularly vital to the process of converting general postal policies into successful postal operations.

"§ 209. Seniority of rural carriers

"(a) Unless varied by the terms of a collective-bargaining agreement between the Postal Service and the bargaining representative of affected rural carriers, the Postal Service shall recognize the seniority status of rural carriers in accordance with the provisions of subsections (b)–(d) of this section.

"(b) The seniority status of a rural carrier commences on the day of appointment as a regular rural carrier. Upon voluntary transfer from one office to another, or another branch of the service into the rural delivery service, the relative seniority of the transferee commences on the day he enters the rural delivery service of the office to which transfer is made.

"(c) A rural carrier shall be assigned by

the Postal Service to the least desirable route upon entering the service and shall rise to the more desirable routes by seniority.

"(d) The Postal Service shall base promotions and preferential assignments in the rural delivery service upon seniority and ability. If ability be sufficient, seniority shall govern.

SUBCHAPTER II—LABOR-MANAGEMENT RELATIONS

"§ 221. Definition

"As used in this subchapter, 'guards' means—

"(1) maintenance guards, being employees employed by the Postal Service on the effective date of this chapter in Key Position KP–5, under the provisions of former section 3514 of this title, and

"(2) security guards, being employees in a classification which may be established in the Postal Service and whose primary duties shall include the exercise of authority to enforce rules to protect the safety of property, mail, or persons on the premises of the Postal Service.

"§ 222. Applicability of National Labor Relations Act

"(a) Labor-management relations shall, to the extent not inconsistent with provisions of this title, be subject to the provisions of subchapter II of chapter 7 (the National Labor Relations Act, as amended) of title 29.

"(b) Each employee of the Postal Service has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

"§ 223. Bargaining units

"The National Labor Relations Board shall decide in each case the unit appropriate for collective bargaining in the Postal Service: *Provided*, That the National Labor Relations Board shall not include in any bargaining unit—

"(i) any management official or supervisor;

"(ii) any employee engaged in personnel work in other than a purely nonconfidential clerical capacity;

"(iii) both professional employees and employees who are not professional employees unless a majority of such professional employees vote for inclusion in such unit; or

"(iv) together with other employees, any individual employed as a security guard to enforce against employees and other persons, rules to protect property of the Postal Service or to protect the safety of property, mail, or persons on the premises of the Postal Service; but no labor organization shall be certified as the representative of employees in a bargaining unit of security guards if such organization admits to membership, or is affiliated directly or indirectly with an organization which admits to membership employees other than guards.

"§ 224. Recognition of labor organizations

"(a) The Postal Service shall accord exclusive recognition to a labor organization when the organization has been selected by a majority of the employees in an appropriate unit as their representative.

"(b) Agreements and supplements in effect on the date of enactment of this section covering employees in the Post Office Department shall continue to be recognized by the Postal Service until altered or amended pursuant to law.

"(c) When a petition has been filed, in accordance with such regulations as may be prescribed by the National Labor Relations Board—

"(1) by an employee, a group of employees, or any labor organization acting in their behalf, alleging that (A) a substantial number of employees wish to be represented for collective bargaining by a labor organization and that the Postal Service declines to recognize such labor organizations as the representative; or (B) the labor organization which has been certified or is being currently recognized by the Postal Service as the bargaining representative is no longer a representative; or

"(2) by the Postal Service, alleging that one or more labor organizations has presented to it a claim to be recognized as the representative;

the National Labor Relations Board shall investigate such petition and, if it has reasonable cause to believe that a question of representation exists, shall provide for an appropriate hearing upon due notice. Such hearing may be conducted by an officer or employee of the National Labor Relations Board, who shall not make any recommendations with respect thereto. If the National Labor Relations Board finds upon the record of such hearing that such a question of representation exists, it shall direct an election by secret ballot and shall certify the results thereof.

"(d) A petition filed under subsection (c) (1) of this section shall be accompanied by a statement signed by at least 30 per centum of the employees in the appropriate unit stating they desire that an election be conducted for the purpose set forth in such subsection.

"(e) Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation for the purpose of a consent election in conformity with regulations and rules of decision of the National Labor Relations Board.

"§ 225. Elections

"(a) All elections authorized under section 224 of this title shall be conducted under the supervision of the National Labor Relations Board, or persons designated by it, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or 'no union'.

"(b) If any election where none of the choices on the ballot receives a majority, a runoff shall be conducted, the ballot providing for a selection between the two choices receiving the largest and second largest number of valid votes cast in the election. In the event of a tie vote, additional runoff elections shall be conducted until one of the choices has received a majority of the votes.

"(c) No election shall be held in any bargaining unit within which, in the preceding twelve-month period, a valid election has been held.

"§ 226. Deductions of dues

"(a) When a labor organization holds exclusive recognition, or when an organization of personnel not subject to collective bargaining agreements has consultation rights under section 208 of this title, the Postal Service shall deduct the regular and periodic dues of the organization from the pay of all members of the organization in the unit of recognition if the Post Office Department or the Postal Service has received from each employee, on whose account such deductions are made, a written assignment which shall be irrevocable for a period of not more than one year.

"(b) Any agreement in effect immediately prior to the enactment of this section between the Post Office Department and any organization of postal employees which provides for deduction by the Department of the regular and periodic initiation fees, dues, and assessments of the organization from the pay of its members, shall continue in full force and effect and the obligation for such deductions shall be assumed by the Postal Service. No such deduction shall be made from the pay of any employee except on his written assignment, which shall be irrevocable for a period of not more than one year.

"§ 227. Collective-bargaining agreements

"(a) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 224 of this title shall be effective for not less than 2 years.

"(b) Collective-bargaining agreements between the Postal Service and bargaining representatives recognized under section 224 may include any procedures for resolution by the parties of grievances and adverse actions arising under the agreement, including procedures culminating in binding third-party arbitration, or the parties may adopt any such procedures by mutual agreement in the event of a dispute.

"(c) The Postal Service and bargaining representatives recognized under section 224 may by mutual agreement adopt procedures for the resolution of disputes or impasses arising in the negotiation of a collective-bargaining agreement.

"§ 228. Labor disputes

"(a) If there is a collective-bargaining agreement in effect, no party to such agreement shall terminate or modify such agreement unless the party desiring such termination or modification serves written notice upon the other party to the agreement of the proposed termination or modification not less than 90 days prior to the expiration date thereof, nor not less than 90 days prior to the time it is proposed to make such termination or modification. The party serving such notice shall notify the Federal Mediation and Conciliation Service of the existence of a dispute within 45 days of such notice, provided no agreement has been reached by that time.

"(b) In the event the parties fail to reach agreement or to adopt a procedure providing for a binding resolution of a dispute by the expiration date of the agreement in effect, or the date of the proposed termination or modification, the Director of the Federal Mediation and Conciliation Service shall direct the establishment of a factfinding panel which shall consist of 3 persons. For this purpose, he shall submit to the parties a list of not less than 15 names, from which list each party, within 10 days, shall select one person. The 2 so selected shall then choose from the list a third person who shall serve as chairman of the factfinding panel. If either of the parties fails to select a person or if the 2 members are unable to agree on the third person within 3 days, the selection shall be made by the Director. The factfinding panel shall after due investigation issue a report of its findings, with or without recommendations, to the parties no later than 45 days from the date the list of names was submitted.

"(c)(1) In the event no agreement is reached within 90 days after the expiration or termination of the agreement or date on which the agreement became subject to modification pursuant to subsection (b) of this section, or if the parties decide upon arbitration but do not agree upon the procedures therefor, an arbitration board shall be established consisting of 3 members, not members of the factfinding panel, one of whom shall be selected by the Postal Service, one by the bargaining representative of the employees, and the third by the two thus selected. If either of the parties fails to select a member, or if the members chosen by the parties fail to agree on the third person within 5 days after their first meeting, the selection shall be made by the Director. In the event the parties do not agree on the framing of the issues to be submitted, the factfinding panel shall frame the issues and submit them to the arbitration board.

"(2) The arbitration board shall give the parties a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to pre-

sent their case in person, by counsel or by other representative as they may elect. Decisions of the arbitration board shall be conclusive and binding upon the parties. The arbitration board shall render its decision within 45 days after its appointment.

"(3) Costs of the arbitration board and factfinding panel shall be shared equally by the Postal Service and the bargaining representative.

"(d) In the case of a bargaining unit whose recognized collective-bargaining representative does not have an agreement with the Postal Service, if the parties fail to reach agreement within 90 days of the commencement of collective bargaining, a factfinding panel will be established in accordance with the terms of section 228(b), unless the parties have previously agreed to another procedure for a binding resolution of their difference. If the parties fail to reach agreement within 180 days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of section 228(c).

"§ 229. Suits

"(a) The courts of the United States shall have jurisdiction in respect to actions by the National Labor Relations Board under this title to the same extent that they have jurisdiction in respect to actions under title 29.

"(b) Suits for violation of contracts between the Postal Service and a labor organization representing Postal Service employees, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy.

"(c) A labor organization and the Postal Service shall be bound by the authorized acts of their agents. Any labor organization may sue or be sued as an entity and in behalf of the employees whom it represents in the courts of the United States. Any money judgment against a labor organization in a district court of the United States shall be enforcible only against the organization as an entity and against its assets, and shall not be enforcible against any individual member or his assets.

"(d) For the purposes of actions and proceedings by or against labor organizations in the district courts of the United States, district courts shall be deemed to have jurisdiction of a labor organization (1) in the district in which such organization maintains its principal offices, or (2) in any district in which its duly authorized officers or agents are engaged in representing or acting for employee members.

"(e) The service of summons, subpena, or other legal process of any court of the United States upon an officer or agent of a labor organization, in his capacity as such, shall constitute service upon the labor organization.

"§ 230. Labor-management reporting and disclosure

"The provisions of chapter 11 of title 29 shall be applicable to labor organizations that have or are seeking to attain recognition under section 224 of this title, and to such organizations' officers, agents, shop stewards, other representatives, and members to the extent to which such provisions would be applicable if the Postal Service were an employer under section 402 of title 29: *Provided, however,* That in addition to the authority conferred on him under section 438 of title 29, the Secretary of Labor shall have authority, by regulation issued with the written concurrence of the Postmaster General, to prescribe simplified reports for any such labor organization. The Secretary of Labor may revoke such provision for simplified forms of any such labor organization if he determines, after such investigation as he deems proper and after due notice and opportunity for a hearing, that the purposes of this chapter and of chapter 11 of title 29 would be served thereby.

"CHAPTER 4.—SERVICES

"Sec.
"401. General duties.
"402. Specific powers.
"403. Service classifications and mailable matter.
"404. Postal services at Armed Forces installations.
"405. International postal arrangements.
"406. Small post office closings.

"§ 401. General duties

"(a) The Postal Service shall plan, develop, promote, and provide adequate and efficient postal service at fair and reasonable rates and fees. Except as provided in the Canal Zone Code, the Postal Service shall receive, transmit, and deliver throughout the United States, its territories and possessions, and, pursuant to arrangements entered into under sections 112 and 404 of this title, throughout the world, written and printed matter, parcels, and like materials and provide such other services incidental thereto as it finds appropriate to its functions and in the public interest. It shall serve as nearly as practicable the entire population of the United States.

"(b) It shall be the responsibility of the Postal Service—

"(1) to maintain an efficient system of collection, sorting, and delivery of the mail nationwide;

"(2) to provide types of mail service to meet the needs of different categories of mail and mail users; and

"(3) to establish and maintain postal facilities of such character and in such locations that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services.

"(c) In providing services and in establishing classifications, rates, and fees pursuant to this title, the Postal Service shall not, except as specifically authorized in this title, make any undue or unreasonable discrimination among users of the mails, nor shall it grant any undue or unreasonable preferences to any such user.

"§ 402. Specific powers

"Without limitation of the generality of its powers, the Postal Service shall have the following specific powers, among others:

"(1) to provide for the collection, handling, transportation, delivery, forwarding, returning, and holding of mail, and for the disposition of undeliverable mail;

"(2) to prescribe, in accordance with this title, the amount of postage and the manner in which it is to be paid;

"(3) to determine the need for post offices, postal and training facilities and to provide such offices, facilities, and equipment as it determines are needed;

"(4) to provide and sell postage stamps and other stamped paper, cards and envelopes and to provide such other evidences of payment of postage and fees as may be necessary or desirable;

"(5) to provide philatelic services;

"(6) to provide, establish, change, or abolish special, nonpostal, or similar services; and

"(7) to investigate postal offenses and civil and administrative matters related to the Postal Service and postal services, and to pay rewards in connection therewith.

"§ 403. Service classifications and mailable matter

"(a) Subject to chapter 12 of this title, the Postal Service may establish classifications of service and promulgate reasonable rules and regulations concerning the preparation of matter for mailing and the mailing thereof. The Postal Service shall not, except during emergencies, refuse to accept for mailing any matter weighing less than forty pounds, having a size not in excess of eighty-four inches in girth and length combined, unless it is nonmailable under the provisions of chapter 6 of this title or other law; but it may levy a charge therefor, established under the provisions of chapter 12 of this title, which reflects the failure of the mailer to conform to the regulations established under this title.

"(b) (1) Except as provided in paragraph (2) of this subsection, the maximum weight of any parcel shall not exceed forty pounds, and the maximum size of any parcel shall not exceed—

"(i) seventy-eight inches in girth and length combined on parcels mailed before July 1, 1971; and

"(ii) eighty-four inches in girth and length combined on parcels mailed on or after July 1, 1971.

"(2) The maximum size on parcels is one hundred inches in girth and length combined and the maximum weight is seventy pounds for parcels—

"(i) mailed at, or addressed for delivery at, an office that would have been a second-, third-, or fourth-class post office under former section 702 of this title or on a rural or star route;

"(ii) containing baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities;

"(iii) not mailed at zone rates of postage other than the zone rates which are applicable to correspondence and similar matter;

"(iv) addressed to or mailed at any Armed Forces post office outside the fifty States; and

"(v) addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States, including the Canal Zone and the Trust Territory of the Pacific Islands.

"§ 404. Postal services at Armed Forces installations

"(a) The Postal Service may establish branch post offices at camps, posts, bases, or stations of the Armed Forces and at defense or other strategic installations.

"(b) The Secretaries of Defense and Transportation shall make arrangements with the Postmaster General to perform postal services through personnel designated by them at or through branch post offices established under subsection (a) of this section.

"§ 405. International postal arrangements

"(a) For the purpose of making better postal arrangements with other countries, the Postal Service, by and with the advice and consent of the President, may negotiate and conclude postal treaties or conventions, and may reduce or increase the rates of postage or other charges on mail matter conveyed between the United States and other countries. The decisions of the Commission construing or interpreting the provisions of any treaty or convention which has been or may be negotiated and concluded shall, if approved by the President, be final and conclusive upon all officers of the United States.

"(b) The Postal Service may make arrangements with other governments for the exchange of sums of money by means of postal orders. The Commission shall fix limitations on the amount which may be so exchanged and the rates of exchange.

"§ 406. Small post office closings

"No small post office shall be closed solely for operating at a deficit, it being the intent of the Congress that effective postal service be insured to residents of both urban and rural communities.

"Chapter 6.—MAIL MATTER

"NONMAILABLE MATTER

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"670. Franked mail for surviving spouses of Members of Congress.
"671. Armed Forces mailing privileges.

"NONMAILABLE MATTER

"§ 601. Nonmailable matter

"(a) Matter the deposit of which in the mails is punishable under section 1302, 1341, 1342, 1461, 1463, 1714, 1715, 1716, 1717, or 1718 of title 18 is nonmailable.

"(b) Nonmailable matter which reaches the office of delivery, or which may be seized or detained for violation of law, shall be disposed of as the Postal Service directs.

"(c) Matter otherwise legally acceptable in the mails which—

"(1) is in the form of, and reasonably could be interpreted or construed as, a bill, invoice, or statement of account due; but

"(2) constitutes, in fact, a solicitation for the order by the addressee of goods or services, or both;

is nonmailable matter, shall not be carried, or delivered by mail, and shall be disposed of as the Postal Service directs, unless such matter bears on its face, in conspicuous and legible type in contrast by typography, layout, or color with other printing on its face, in accordance with regulations which the Postal Service shall prescribe—

"(A) the following notice: 'This is a solicitation for the order of goods and/or services and not a bill, invoice, or statement of account due. You are under no obligation to make any payments on account of this offer unless you accept this offer'; or

"(B) in lieu thereof, a notice to the same effect in words which the Postal Service may prescribe.

"(d) Any matter is nonmailable which exceeds the prescribed size and weight limits or is of a character perishable within the period required for transportation and delivery.

"(e) Except as otherwise provided by law, proceedings concerning the mailability of matter under this chapter and chapter 71 and 83 of title 18 shall be conducted in accordance with chapters 5 and 7 of title 5.

"§ 602. Nonmailable motor vehicle master keys

"(a) Except as provided in subsection (b) of this section, any motor vehicle master key, any pattern, impression, or mold from which a motor vehicle master key may be made, and any advertisement for the sale of any such key, pattern, impression, or mold, is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

"(b) The Postal Service is authorized to make such exemptions from the provisions of subsection (a) of this section as it deems necessary.

"(c) For the purposes of this section, 'motor vehicle master keys' means any key (other than the key furnished by the manufacturer with the motor vehicle, or the key furnished with a replacement lock, or an exact duplicate of such keys) designed to operate two or more motor vehicle ignition, door, or trunk locks of different combinations.

"§ 603. Mail bearing a fictitious name or address

"(a) Upon evidence satisfactory to the Postal Service that any person is using a fictitious, false, or assumed name, title, or address in conducting, promoting, or carrying on or assisting therein, by means of the Postal Service of the United States, an activity in violation of section 1302, 1341, or 1342 of title 18, the Postal Service may—

"(1) withhold mail so addressed from delivery; and

"(2) require the party claiming the mail to furnish proof to it of the claimant's identity and right to receive the mail.

"(b) The Postal Service may issue an order directing that mail, covered by subsection (a), be forwarded to a dead letter office as fictitious matter, or be returned to the sender when the—

"(1) party claiming the mail fails to furnish proof of his identity and right to receive the mail; or

"(2) the Postal Service is satisfied that the mail is addressed to a fictitious, false, or assumed name, title, or address.

"§ 604. Delivery of mail to persons not residents of the place of address

"Whenever the Postal Service is satisfied that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended, to enable the person to escape identification, it may deliver the mail only upon identification of the person so addressed.

"§ 605. False representations; lotteries

"(a) Upon evidence satisfactory to the Postal Service that any person is engaged in conducting a scheme or device for obtaining money or property through the mail by means of false representations, or is engaged in conducting a lottery, gift enterprise, or scheme for the distribution of money or of real or personal property, by lottery, chance, or drawing of any kind, the Postal Service may issue an order which—

"(1) directs any postmaster at an office at which registered or certified letters or other letters or mail arrive, addressed to such a person or to his representative, to return such letters or mail to the sender appropriately marked as in violation of this section, if such person, or his representative, is first notified and given reasonable opportunity to be present at the receiving post office to survey such letters or mail before the postmaster returns such letters or mail to the sender; and

"(2) forbids the payment by a postmaster to such a person or his representative of any money order drawn to the order of either and provide for the return to the remitters of the sum named in the money order.

"(b) The public advertisement by a person engaged in activities covered by subsection (a) of this section that remittances may be made by mail to a person named in the advertisement is prima facie evidence that the letter is the agent or representative of the advertiser for the receipt of remittances on behalf of the advertiser. The Postal Service is not precluded from ascertaining the existence of the agency in any other legal way satisfactory to it.

"(c) As used in this section and section 606 of this title, the term 'representative' includes an agent or representative acting as an individual or as a firm, bank, corporation, or association of any kind.

§ 606. 'Unlawful' matter

"Upon evidence satisfactory to the Postal Service that a person is obtaining or attempting to obtain remittances of money or property of any kind through the mail for an obscene, lewd, lascivious, indecent, filthy, or vile article, matter, thing, device, or substance, or is depositing or causing to be deposited in the United States mail information as to where, how, or from whom the same may be obtained, the Postal Service may—

"(1) direct postmasters at the office at which registered letters or other letters or mail arrive, addressed to such a person or to his representative, to return the registered letters or other letters or mail to the sender marked 'Unlawful'; and

"(2) forbid the payment by a postmaster to such a person or his representative of any money order drawn to the order of either and provide for the return to the remitters of the sums named in the money orders.

§" 607. Detention of mail for temporary periods

"(a) In preparation for or during the pendency of proceedings under sections 605 and 606 of this title, the United States district court in the district in which the defendant receives his mail, shall upon application therefor by the Postal Service and upon a showing of probable cause to believe the statute is being violated, enter a temporary restraining order and preliminary injunction pursuant to rule 65 of the Federal Rules of Civil Procedure directing the detention of the defendant's incoming mail by the postmaster pending the conclusion of the statutory and proceedings and any appeal therefrom. The district court may provide that the detained mail be open to examination by the defendant and such mail delivered as is clearly not connected with the alleged unlawful activity. An action taken by a court under this section does not affect or determine any fact at issue in the statutory proceedings.

"(b) This section does not apply to mail addressed to publishers of publications entitled to the periodical publication rate, or to mail addressed to the agents of those publishers.

"§ 608. Prohibition of pandering advertisements in the mails

"(a) Whoever for himself, or by his agents or assigns, mails or causes to be mailed any pandering advertisement which offers for sale matter which the addressee in his sole discretion believes to be erotically arousing or sexually provocative shall be subject to an order of the Postal Service to refrain from further mailings of such materials to designated addressees thereof.

"(b) Upon receipt of notice from an addressee that he has received such mail matter, determined by the addressee in his sole discretion to be of the character described in subsection (a) of this section, the Postal Service shall issue an order, if requested by the addressee, to the sender thereof, directing the sender and his agents or assigns to refrain from further mailings to the named addressees.

"(c) The order of the Postal Service shall expressly prohibit the sender and his agents or assigns from making any further mailings to the designated addressees, effective on the thirtieth calendar day after receipt of the order. The order of the Postal Service shall also direct the sender and his agents or assigns to delete immediately the names of the designated addressees from all mailing lists owned or controlled by the sender or his agents or assigns and, further, shall prohibit the sender and his agents or assigns from the sale, rental, exchange, or other transaction involving mailing lists bearing the names of the designated addressees.

"(d) Whenever the Postal Service believes that the sender or anyone acting on his behalf has violated or is violating the order given under this section, it shall serve upon the sender, by registered or certified mail, a complaint stating the reasons for its belief and request that any response thereto be filed in writing with the Postal Service within fifteen days after the date of such service. If the Postal Service after appropriate hearing if requested by the sender, and without a hearing if such a hearing is not requested, thereafter determines that the order given has been or is being violated, it is authorized to request the Attorney General to make application, and the Attorney General is authorized to make application, to a district court of the United States for an order directing compliance with such notice.

"(e) Any district court of the United States within the jurisdiction of which any mail matter shall have been sent or received in violation of the order provided for by this section shall have jurisdiction, upon application by the Attorney General, to issue an order commanding compliance with such notice. Failure to observe such order may be punished by the court as contempt thereof.

"(f) Receipt of mail matter thirty days or more after the effective date of the order provided for by this section shall create a rebuttable presumption that such mail was sent after such effective date.

"(g) Upon request of any addressee, the order of the Postal Service shall include the names of any of his minor children who have not attained their nineteenth birthday and who reside with the addressee.

"(h) The provisions of subchapter II of chapter 5 (relating to administrative procedure) and chapter 7 (relating to judicial review) of title 5, United States Code, shall not apply to any provisions of this section.

"(i) For the purposes of this section—

"(1) mail matter, directed to a specific address covered in the order of the Postal Service, without designation of a specific addressee thereon, shall be considered as addressed to the person named in the order of the Postal Service, and

"(2) the term 'children' includes natural children, stepchildren, adopted children, and children who are wards of or in custody of the addressee or who are living with such addressee in a regular parent-child relationship.

"PENALTY AND FRANKED MAIL

"§ 651. Definitions

"As used in this chapter—

"'Penalty mail' means official mail, other than franked mail, which is authorized by law to be transmitted in the mail without prepayment of postage.

"'Penalty cover' means envelopes, wrappers, labels, or cards used to transmit penalty mail.

"'Frank' means the autographic or facsimile signature of persons authorized by sections 660–666 and 670 of this title to transmit matter through the mail without prepayment of postage or other indicia contemplated by sections 733 and 907 of title 44.

"'Franked mail' means mail which is transmitted in the mail under a frank.

"'Members of Congress' includes Senators, Representatives, Delegates, and Resident Commissioners.

"§ 652. Penalty mail

"(a) Subject to the limitations imposed by sections 654–657 of this title, there may be transmitted as penalty mail—

"(1) official mail of—

"(A) officers of the United States Government other than Members of Congress;

"(B) the Smithsonian Institution;

"(C) the Pan American Union;

"(D) the Pan American Sanitary Bureau;

"(E) the United States Employment Service and the system of employment offices operated by it in conformity with the provisions of sections 49–49c, 49d, 49g–49k of title 29, and all State employment systems which receive funds appropriated under authority of those sections; and

"(F) any college officer or other person connected with the extension department of the college as the Secretary of Agriculture may designate to the Postal Service to the extent that the official mail consists of correspondence, bulletins, and reports for the furtherance of the purposes of sections 341–343, 344–348 of title 7;

"(2) mail relating to naturalization to be sent to the Immigration and Naturalization Service by clerks of courts addressed to the Department of Justice or the Immigration and Naturalization Service, or any official thereof;

"(3) mail relating to a collection of statistics, survey, or census authorized by title 13 and addressed to the Department of Commerce or a bureau or agency thereof;

"(4) mail of State agricultural experiment stations pursuant to sections 325 and 361f of title 7; and

"(5) articles for copyright deposited with postmasters and addressed to the Register of Copyrights pursuant to section 15 of title 17.

"(b) A department or officer authorized to use penalty covers may enclose them with return address to any person from or through whom official information is desired. The penalty cover may be used only to transmit the official information and endorsements relating thereto.

"(c) This section does not apply to officers who receive a fixed allowance as compensation for their services, including expenses of postage.

"§ 653. Endorsements on penalty covers

"(a) Except as otherwise provided in this section, penalty covers shall bear, over the words 'Official Business' an endorsement showing the name of the department, bureau, or office from which, or officer from whom, it is transmitted. The penalty for the unlawful use of all penalty covers shall be printed thereon.

"(b) The Postal Service shall prescribe the endorsement to be placed on covers mailed under paragraphs (1)(E), (2), and (3) of section 652(a) of this title.

"§ 654. Restrictions on use of penalty mail

"(a) Except as otherwise provided in this section, an officer, executive department, or independent establishment of the Government of the United States may not mail, as penalty mail, any article or document unless—

"(1) a request therefor has been previously received by the department or establishment; or

"(2) its mailing is required by law.

"(b) Subsection (a) does not prohibit the mailing, as penalty mail, by an officer, executive department, or independent agency of—

"(1) enclosures reasonably related to the subject matter of official correspondence;

"(2) informational releases relating to the census of the United States and authorized by title 13;

"(3) matter concerning the sale of Government securities;

"(4) forms, blanks, and copies of statutes, rules, regulations, instructions, administrative orders, and interpretations necessary in the administration of the department or establishment;

"(5) agricultural bulletins;

"(6) lists of public documents offered for sale by the Superintendent of Documents;

"(7) announcements of the publication of maps, atlases, and statistical and other reports offered for sale by the Federal Power Commission as authorized by section 825k of title 16; or

"(8) articles or documents to educational institutions or public libraries, or to Federal, State, or other public authorities.

"§ 655. Accounting for penalty covers

"Executive departments and agencies, independent establishments of the Government, and organizations and persons authorized by law to use penalty mail, shall account for all penalty covers through the Postal Services as it prescribes.

"§ Reimbursement for penalty mail service

"(a) Except as provided in subsections (b) and (c) of this section, executive departments and agencies, independent establishments of the Government and Government corporations concerned shall transfer to the Postal Service as postal revenue out of any appropriations or funds available to them as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Postal Service for matter sent in the mails by or to them as penalty mail under authority of section 652 of this title.

"(b) The Department of Agriculture shall transfer to the Postal Service as postal revenues out of any appropriation made to it for that purpose the equivalent amount of postage, as determined by the Postal Service for penalty mailings under paragraphs (1)(F) and (4) of subsection (a) of section 652 of this title.

"(c) The Library of Congress shall transfer to the Postal Service as postal revenues out of any appropriation made to it for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under paragraph (5) of subsection (a) of section 652 of this title.

"§ 657. Limit of weight of penalty mail; postage on over-weight matter

"(a) Penalty mail is restricted to articles not in excess of the weight and size prescribed for letter mail except—

"(1) stamped paper and supplies sold or used by the Postal Service; and

"(2) books and documents published or circulated by order of Congress when mailed by the Superintendent of Documents.

"(b) A penalty mail article which is—

"(1) over four pounds in weight,

"(2) not in excess of the weight and size prescribed for parcels, and

"(3) otherwise mailable,

is mailable at parcel rates even though it may include written matter and may be sealed. The postage on such an article is payable in the manner prescribed by the Postal Service.

"§ 658. Shipment by most economical means

"Shipments of official matter other than franked mail shall be sent by the most economical means of transportation practicable. The Postal Service may refuse to accept official matter for shipment by mail when in its judgment it may be shipped by other means

at less expense, or the Postal Service may provide for its transportation by freight or express, whenever a saving to the Government will result therefrom without detriment to the public.

"§ 659. Executive departments to supply information

"Persons and governmental organizations authorized to use penalty mail shall supply all information requested by the Postal Service necessary to carry out the provisions of sections 651–658 of this title as soon as practicable after request therefor.

"§ 660. Official correspondence of Vice President and Members of Congress

"The Vice President, Members and Members-elect of Congress, the Secretary of the Senate, the Sergeant at Arms of the Senate, the Sergeant at Arms of the House of Representatives, and the Clerk of the House of Representatives, until the 30th day of June following the expiration of their respective terms of office, may send as franked mail—

"(1) matter, not exceeding four pounds in weight, upon official or departmental business, to a Government official; and

"(2) correspondence, not exceeding four ounces in weight, upon official business to any person.

In the event of a vacancy in the office of the Secretary of the Senate, Sergeant at Arms of the Senate, the Sergeant at Arms of the House of Representatives, or the Clerk of the House of Representatives, any authorized person may exercise this privilege in the officer's name during the period of the vacancy.

"§ 661. Public documents

"The Vice President, Members of Congress, the Secretary of the Senate, Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, until the 30th day of June following the expiration of their respective terms of office, may send and receive as franked mail all public documents printed by order of Congress.

"§ 662. Congressional Record under frank of Members of Congress

"Members of Congress may send as franked mail the Congressional Record, or any part thereof, or speeches or reports therein contained.

"§ 663. Seeds and reports from Department of Agriculture

"Seeds and agricultural reports emanating from the Department of Agriculture may be mailed—

"(1) as penalty mail by the Secretary of Agriculture; and

"(2) until the 30th day of June following the expiration of their terms of office as franked mail by Members of Congress.

"§ 664. Mailing privileges of former Presidents

"A former President may send all his mail within the United States and its territories and possessions as franked mail.

"§ 665. Lending or permitting use of frank unlawful

"A person entitled to use a frank may not lend it or permit its use by any committee, organization, or association, or permit its use by any person for the benefit or use of any committee, organization, or association. This section does not apply to any committee composed of Members of Congress.

"§ 666. Reimbursement for franked mailings

"(a) The postage on mail matter sent and received through the mails under the franking privilege by the Vice President, Members, and Members-elect of Congress, the Secretary of the Senate, Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, including registry fees if registration is required and postage on correspondence sent by the surviving spouse of a Member under section 670 of this title, shall be paid by a lump-sum appropriation to the legislative branch for that purpose, and credited to the Postal Service as postal revenue.

"(b) The postage on mail matter sent through the mails under the franking privilege by former Presidents shall be paid by reimbursement of the postal revenues each fiscal year out of the general funds of the Treasury in an amount equivalent to the postage which would otherwise be payable on the mail matter.

"§ 667. Correspondence of members of diplomatic corps and consuls of countries of Postal Union of the Americas and Spain

"Correspondence of the members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain stationed in the United States may be reciprocally transmitted in the domestic mails free of postage, and be entitled to free registration without right to indemnity in case of loss. The same privilege is accorded consuls and vice consuls when they are discharging the function of consuls of these countries stationed in the United States, or official correspondence among themselves, and with the Government of the United States.

"§ 668. Mailing privilege of members of the United States Armed Forces and of friendly foreign nations

"(a) Letter mail, including postal cards and post cards, and sound-recorded communications having the character of personal correspondence, shall be carried, at no cost to the sender, in the manner provided by section 671 of this title, when mailed by—

"(1) a member of the Armed Forces of the United States on active duty as defined in sections 101(4) and 101(22) of title 10, and addressed to a place within the delivery limits of a United States post office, if—

"(A) the letter or sound-recorded communication is mailed by the member at an Armed Forces post office established under section 404(a) of this title in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, or serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent; or

"(B) the member is hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of service in an overseas area designated by the President under clause (A); or

"(2) a member of an armed force of a friendly foreign nation at an Armed Forces post office and addressed to a place within the delivery limits of a United States post office, or a post office of the nation in whose armed forces the sender is a member, if—

"(A) the member is accorded free mailing privileges by his own government;

"(B) the foreign nation extends similar free mailing privileges to a member of the Armed Forces of the United States serving with, or in, a unit under the control of a command of that foreign nation;

"(C) the member is serving with, or in, a unit under the operational control of a command of the Armed Forces of the United States;

"(D) the letter or sound-recorded communication is mailed by the member—

"(i) at an Armed Forces post office established under section 404(a) of this title in an overseas area, as designated by the President, where the Armed Forces of the United States are engaged in action against an enemy of the United States, engaged in military operations involving armed conflict with a hostile foreign force, or serving with a friendly foreign force in an armed conflict in which the United States is not a belligerent; or

"(ii) while hospitalized in a facility under the jurisdiction of the Armed Forces of the United States as a result of disease or injury incurred as a result of services in an overseas area designated by the President under clause (D) (i); and

"(E) the nation in whose armed forces the sender is a member has agreed to assume all international postal transportation charges incurred.

"(b) The Department of Defense shall transfer to the Postal Service as postal revenue, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, the equivalent amount of postage due, as determined by the Commission for matter sent in the mails under authority of subsection (a) of this section.

"(c) Subsections (a) and (b) of this section shall be administered under such conditions, and under such regulations, as the Postal Service and the Secretary of Defense jointly may prescribe.

"§ 669. Mailing privileges of members of United States Armed Forces and of friendly foreign nations in the Canal Zone

"(a) For the purposes of sections 668, 671, and 1201 (c) of this title, each post office in the Canal Zone postal service, to the extent that it provides mail service for members of the United States Armed Forces and of friendly foreign nations, shall be considered to be an Armed Forces post office established under section 404(a) of this title.

"(b) The Department of Defense shall reimburse the postal service of the Canal Zone, out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or fund and of the activities concerned, the equivalent amount of postage due, and sums equal to the expenses incurred by, the postal service of the Canal Zone, as determined by the Governor of the Canal Zone, for matter sent in the mails, and in providing air transportation of mail, under such sections.

"§ 670. Franked mail for surviving spouses of Members of Congress

"Upon the death of a Member of Congress during his term of office, the surviving spouse of such Member may send, for a period not to exceed one hundred and eighty days after his death, as franked mail, correspondence relating to the death of the Member.

"§ 671. Armed Forces mailing privileges

"(a) There shall be transported by air, between Armed Forces post offices established under section 404(a) of this title which are located outside the forty-eight contiguous States of the United States, or between any such Armed Forces post office and the point of embarkation or debarkation within the fifty States of the United States, the territories and possessions of the United States in the Pacific area, the Commonwealth of Puerto Rico, the Virgin Islands, or the Canal Zone, on a space-available basis, on scheduled United States air carriers at rates fixed and determined by the Civil Aeronautics Board in accordance with section 1376 of title 49 and as otherwise provided in this title, the following categories of mail matter:

"(1) (A) letter mail (including postal cards and post cards),

"(B) sound-recorded communications having the character of personal correspondence, and

"(C) parcels not exceeding five pounds in weight and sixty inches in length and girth combined, which are mailed at or addressed to any such Armed Forces post office.

"(2) publications entitled to the periodical publication rate that are published once each week or more frequently and featuring principally current news of interest to members of the Armed Forces and the general public which are mailed at or addressed to

any such Armed Forces post office (A) in an overseas area designated by the President under section 668 of this title, or (B) in an isolated, hardship, or combat support area overseas, or where adequate surface transportation is not available; and

"(3) parcels exceeding five pounds but not exceeding seventy pounds in weight and not exceeding one hundred inches in length and girth combined, including surface-type official mail, which are mailed at or addressed to any such Armed Forces post office where adequate surface transportation is not available.

Whenever adequate service by scheduled United States air carriers is not available to provide transportation of mail matter by air in accordance with the foregoing provisions of this subsection, the transportation of such mail matter may be authorized by aircraft other than scheduled United States air carriers. This subsection shall not affect the operation of section 668(a) of this title.

"(b) Subsection (a) of this section shall be administered under such conditions and regulations as the Postal Service and the Secretary of Defense severally may prescribe to carry out their respective functions thereunder.

"(c) The Department of Defense shall reimburse the Postal Service out of any appropriations or funds available to the Department of Defense, as a necessary expense of the appropriations or funds and of the activities concerned, sums equal to the expenses incurred by the Postal Service as determined by the Postal Service, in providing air transportation for mail mailed at or addressed to Armed Forces post offices established under section 404 of this title, but reimbursement under this subsection shall not include the expense of air transportation (1) for which the Postal Service collects a special charge to the extent the special charge covers the additional expense of air transportation; or (2) that is provided by the Postal Service at the same postage rate or charge for mail which is neither mailed at nor addressed to an Armed Forces post office.

"Chapter 8.—TRANSPORTATION OF MAIL

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"SUBCHAPTER I—GENERAL

"§ 801. Provisions for carrying mail

"The Postal Service shall provide for the transportation of mail by land, air, or water as often as it deems proper under the circumstances subject to the provisions of this chapter.

"§ 802. Transportation of mail of adjoining countries through United States

"The Postal Service, by and with the advice and consent of the President, may make arrangements to allow the mail of countries adjoining the United States to be transported over the territory of the United States from one point in that country to any other point therein, at the expense of the country to which the mail belongs, upon obtaining a like privilege for the transportation of United States mail through the country to which the privilege is granted. The President or the Congress may annul the privilege at any time. The privilege shall terminate one month succeeding the day on which notice of the act of the President or of the Congress is given to the chief executive or head of the post office of the country whose privilege is to be annulled.

"§ 803. Establishment of post roads

"The following are post roads—

"(1) the waters of the United States, during the time the mail is carried thereon;

"(2) railroads or parts of railroads and air routes in operation;

"(3) canals, during the time the mail is carried thereon;

"(4) public roads, highways, and toll roads during the time the mail is carried thereon; and

"(5) letter carrier routes established for the collection and delivery of mail.

"§ 804. Discontinuance of service on post roads

The Postal Service may discontinue service on a post road or part thereof when, in its opinion—

"(1) the postal service cannot safely be continued;

"(2) the revenues cannot be collected;

"(3) the laws cannot be maintained; or

"(4) the public interest so requires.

"§ 805. Postal Service to provide for mail transportation

"(a) The Postal Service is authorized to obtain mail transportation service—

"(1) from common carriers by rail and motor vehicle as provided in subchapter II of this chapter;

"(2) from air carriers as provided in subchapter III of this chapter;

"(3) from water carriers as provided in subchapter IV of this chapter; and

"(4) by contract under such terms and conditions as it deems appropriate, subject to the provisions of this section.

"(b) Except as otherwise specifically provided by this chapter, contracts for transportation of mail authorized by subsection (a) (4) of this section may be for periods not in excess of four years and may be entered into only after advertising a sufficient time previously for proposals except when the Postal Service determines that the waiver of such advertising requirements is in the public interest.

"(c) Contracts under subsection (a)(4) of this section may be renewed by mutual agreement with the holder and the Postal Service, without advertising and for successive terms of not more than four years each.

"(d) The Postal Service, in determining whether to obtain transportation of mail by carrier under subsection (a) (1) of this section, by contract under subsection (a) (4) of this section, or by Government motor vehicle, shall use the mode of transportation which best serves the public interest, due consideration being given to the cost of the transportation service under each mode.

"§ 806. Lien on compensation of contractor

"(a) A person who—

"(1) performs service for a contractor or subcontractor in the transportation of mail;

"(2) files his contract for service with the Postal Service; and

"(3) files satisfactory evidence of performance with the Postal Service,

shall have a lien on money due the contractor or subcontractor for the service.

"(b) The Postal Service may pay the person establishing a lien under subsection (a) of this section the sum due him, when the contractor or subcontractor fails to pay the person the amount of his lien within two months after the expiration of the month in which the service was performed. It shall charge the amount so paid to the contract. The payments may not exceed the annual rate of pay of the contractor or subcontractor.

"§ 807. Free transportation of postal employees

"Each person engaged in the transportation of mail shall carry on any vessel, train, motor vehicle, or aircraft he operates, upon exhibiting their credentials and without extra charge therefor, persons in charge of the mails when on duty and traveling to and from duty.

"SUBCHAPTER II—TRANSPORTATION OF MAIL BY REGULATED SURFACE CARRIER

"§ 825. Definitions

"As used in this subchapter—

"(1) 'carrier' and 'regulated surface carrier' mean a railroad, a freight forwarder, a motor carrier, or an express company;

"(2) 'railroad' means a railway common carrier, including an electric urban and interurban railway common carrier;

"(3) 'freight forwarder' means any regulated freight forwarder which holds itself out to the general public as a common carrier to transport or provide transportation of property as authorized by a permit issued by the Interstate Commerce Commission;

"(4) 'motor carrier' means any common carrier by motor vehicle, except a passenger-carrying motor vehicle, within the meaning of section 303(a)(14) of title 49, which holds a certificate of public convenience and necessity issued by the Interstate Commerce Commission; and

"(5) 'express company' means any express company engaged in transportation as a common carrier for hire under section 1 (3) of title 49.

"§ 826. Applicability

"This subchapter applies to mail transportation performed by any carrier or combination thereof regardless of the mode of transportation actually used to provide the service.

"§ 827. Authorization of service by carrier

"(a) The Postal Service may establish carrier mail routes and authorize mail transportation service thereon. The term 'mail' as used in this subchapter includes equipment and supplies of the Postal Service.

"(b) A carrier shall transport mail offered for transportation by the Postal Service in the manner, under the conditions, and with the service prescribed by the Postal Service. A carrier is entitled to receive fair and reasonable compensation for the transportation and service connected therewith.

"(c) The Postal Service shall determine the trains or motor vehicles upon which mail shall be transported, except that no carrier shall be compelled to transport mail on any train or vehicle which is operated exclusively for the transportation of passengers and their baggage.

"(d) A carrier shall transport with due speed, on any train or motor vehicle it operates, such mail as the Postal Service directs under this section.

"(e) No carrier shall be required to serve territory it is not otherwise authorized to serve, or to provide service for the Postal Service at less than full cost, or to provide service at a detriment to the carrier or its other customers.

(f) An order or determination of the Postal Service under this section shall be consistent with the orders of the Interstate Commerce Commission under sections 832 and 833 of this title.

"§ 828. Placement of equipment

"A railroad shall place cars used for full or apartment post office service in position at such times before departure as the Postal Service directs.

"§ 829. Changes in service

"The Postal Service may authorize, according to the need therefor, new or additional mail transportation service by carriers at the rate or compensation fixed pursuant to this subchapter. It may reduce or discontinue service with pro rata reductions in compensation. The Postal Service may not pay for the additional service which it has not specifically authorized.

"§ 830. Evidence of service

"A carrier shall submit evidence of its performance of mail transportation service, signed by an authorized official, in such form and at such times as the Postal Service requires. Mail transportation service is considered that of the carrier performing it regardless of the ownership of the property used by the carrier.

"§ 831. Fines and deductions

"(a) The Postal Service may fine any carrier in an amount not to exceed $500 for each day the carrier refuses to perform mail transportation services required by it as rates or compensation established under this subchapter.

"(b) The Postal Service shall fine a carrier an amount it deems reasonable for failure or refusal by that carrier to transport mail as required by the Postal Service under section 827 of this title.

"(c) The Postal Service may make deductions from the compensation of a carrier for failure to perform mail transportation service as required under section 827 of this title. If the failure to perform is due to the fault of the carrier, it may deduct a sum not exceeding three times the compensation applying to such service. Such deductions shall not be made prior to the expiration of sixty days following service upon the carrier by the Postal Service of notice of intention of assessing a fine or making a deduction and of the basis therefor.

"§832. Interstate Commerce Commission to fix rates

"(a) The Interstate Commerce Commission shall determine and fix, from time to time, the fair and reasonable rates or compensation for the transportation of mail by carrier and the service connected therewith, and shall prescribe the method of computing such rates or compensation. The Interstate Commerce Commission shall publish its orders stating its determination under this section which shall remain in force until changed by it after notice and hearing.

"(b) For the purpose of determining and fixing rates or compensation under this section, the Interstate Commerce Commission may make just and reasonable classifications of carriers and where just and equitable, fix general rates applicable to carriers in the same classification.

"(c) In determining and fixing fair and reasonable rates or compensation under this section, the Interstate Commerce Commission shall consider the relation between the Government and carriers as public service corporations, and the nature of public service as distinguished, if there is a distinction, from the ordinary transportation business of the carriers.

"(d) Initial rates or compensation for mail transportation service by any carrier or carriers shall be those agreed to by the Postal Service and the carrier or carriers, and such rates or compensation shall continue in effect until such time as the Interstate Commerce Commission fixes the rates or compensation under subsection (a) of this section.

"§ 833. Procedures

"(a) At any time after six months from the entry of an order stating the Interstate Commerce Commission's determination under section 832 of this title, the Postal Service or an interested carrier may apply for a reexamination and substantially similar proceedings as have theretofore been had shall be followed with respect to the rates or compensation for services covered by the application. At the conclusion of the hearing the Interstate Commerce Commission shall enter an order stating its determination.

"(b) Except as authorized by sections 832(d), 834, 835, and 837 of this title, the Postal Service shall pay a carrier the rates or compensation so determined and fixed for application at such stated times as named in the order.

"(c) The Postal Service may file with the Interstate Commerce Commission a comprehensive plan, stating—

"(1) its requirements for the transportation of mail by carrier;

"(2) the character and speed of the trains or motor vehicles which are to carry the various kinds of mail;

"(3) the service, both terminal and en route, which carriers are to render;

"(4) what it believes to be the fair and reasonable rates or compensation for the services required; and

"(5) all other information which may be material to the inquiry, but such other information may be filed at any time in the discretion of the Interstate Commerce Commission.

"(d) When a comprehensive plan is filed, the Interstate Commerce Commission shall give notice of not less than thirty days to each carrier required by the Postal Service to transport mail pursuant to such plan. A carrier may file its answer at the time fixed by the Interstate Commerce Commission, but not later than thirty days after the expiration date fixed by the Interstate Commerce Commission in the notice, and the Interstate Commerce Commission shall proceed with the hearing.

"§ 834. Special rates

"Upon petition by the Postal Service the Interstate Commerce Commission shall determine and fix carload or truckload, or less than carload or truckload, rates for the transportation of mail not entitled to high priority in transportation. A carrier shall perform the service at the rates so determined when requested to do so and under the conditions prescribed by the Postal Service.

"§ 835. Intermodal transportation

"The Postal Service may permit a carrier to perform mail transportation by any form of transportation it deems appropriate at rates or compensation not exceeding those allowable for similar service by the designated form of transportation.

"§ 836. Statistical studies

"The Postal Service may arrange for weighing and measuring mail transported on carrier mail routes and make other computations for statistical and administrative purposes to carry out the purposes of this chapter.

"§ 837. Special contracts

"The Postal Service may enter into special contracts with carriers, without advertising for bids and for periods not in excess of four years. It may contract to pay lower rates or compensation or, where in its judgment conditions warrant, higher rates or compensation than those determined or fixed by the Interstate Commerce Commission. The fact that the Interstate Commerce Commission has not prescribed rates or compensation for the carrier involved, pursuant to section 832 of this title, shall not preclude execution of a contract under this section. A copy of each such contract shall be on file and open to inspection in the administrative offices of the Postal Service and the Interstate Commerce Commission.

"§ 838. Carrier operations, receipts, and expenditures

"The Postal Service shall request any carrier transporting the mails to furnish, under seal, such data relating to the operations, receipts, and expenditures of such carrier as may, in its judgment, be deemed necessary to enable it to ascertain the cost of mail transportation and the proper compensation to be paid for such service.

"§ 839. Agreements with passenger common carriers by motor vehicle

"The Postal Service may enter into contracts under such terms and conditions as it shall prescribe and without advertising for bids for the transportation of mail, in passenger-carrying motor vehicles, by passenger common carriers by motor vehicles over the regular routes on which the carrier is permitted by law to transport passengers.

"§ 840. Star route certification

"(a) Any person, business, firm, company, corporation, or successor in interest of any such person, business, firm, company, or corporation, who was a contractor under a star route, mail messenger, or contract motor vehicle service contract on the effective date of this title, shall, upon application to the Interstate Commerce Commission for the territory within which such contractor operated on or before the effective date of this Act be issued a certificate of public convenience and necessity as a motor carrier for the transportation of mail by the Interstate Commerce Commission without the Interstate Commerce Commission's requiring further proof that the public convenience and necessity will be served by such operation and without further proceedings.

"(b) Applications of persons who were not contractors on the effective date of this Act shall be decided in accordance with applicable Interstate Commerce Commission procedure.

"SUBCHAPTER III—TRANSPORTATION OF MAIL BY AIR

"§ 851. Rules and regulations

"The Postal Service may make such rules, regulations, and orders not inconsistent with sections 1301–1542 of title 49, or any order, rule, or regulation made by the Civil Aeronautics Board thereunder, as may be necessary for the safe and expeditious carriage of all classes of mail by aircraft.

"§ 852. Fines on air carriers transporting mails

"The Postal Service may impose fines on carriers transporting mail by air on routes extending beyond the borders of the United States for—

"(1) unreasonable or unnecessary delay to mail; and

"(2) other delinquencies in the transportation of mail.

"§ 853. Contracts for transportation of mail by air

"(a) When the Postal Service deems that the transportation of mail by aircraft is required between points between which the Civil Aeronautics Board has not authorized an air carrier to engage in the transportation of persons, property, or mail the Postal Service may contract for such transportation, without advertising for bids, in such manner and under such terms and conditions as it may deem appropriate. The transportation of mail under contracts entered into under this subsection is not, except for purposes of sections 1371(k) and 1386(b) of title 49, 'air transportation' as that term is used in sections 1301–1542 of title 49. The Postal Service shall cancel such a contract, in whole or in respect to certain points as the authorization shall require, upon the issuance by the Civil Aeronautics Board of an authorization under sections 1371–1386 of title 49 to any air carrier to engage in the transportation of mail by aircraft between any of the points named in the contract, and the inauguration of scheduled service by such carrier.

"(b) A copy of each contract entered into under this section shall be on file and open to inspection in the administrative offices of the Postal Services and the Civil Aeronautics Board.

"SUBCHAPTER IV—TRANSPORTATION OF MAIL BY VESSEL

"§ 876. Sea post service

"The Postal Service may maintain sea post service on ocean vessels conveying mail to and from the United States.

"§ 877. Termination of contracts for foreign transportation

"Contracts for the transportation of mail by vessel between the United States and a foreign port shall be made subject to cancellation by the Postal Service or the Congress.

"§ 878. Transportation of mail by vessel as freight or express

"The Postal Service may require that mail be transported by freight or express when—

"(1) there is no competition on a water route and the rate or compensation asked is excessive; or

"(2) no proposal is received.

A common carrier by water that refuses to transport the mail when required to do so under this section shall be fined not more than $500 for each day of refusal.

"§ 879. Fines on ocean carriers

"The Postal Service may impose or limit fines on carriers transporting mail by vessel on routes extending beyond the borders of the United States for—

"(1) unreasonable or unnecessary delay to the mail; and

"(2) other delinquencies in the transportation of mail.

"§ 880. Contracts for transportation of mail by vessel

"The Postal Service may contract for the transportation of mail by vessel without advertising for bids for periods not in excess of four years.

"Chapter 10.—FINANCE

"Sec.
"1001. Definitions.
"1002. Capital of Postal Service.
"1003. The Postal Service Fund.
"1004. Transitional appropriations.
"1005. Obligations.
"1006. Relationship between the Treasury and the Postal Service.
"1007. Public debt character of the obligations of the Postal Service.
"1008. Audit and expenditures.
"1009. Annual budget.

"§ 1001. Definitions

"As used in this chapter—

"'Fund' means the Postal Service fund established by section 1003 of this chapter.

"'Obligations', when referring to debt instruments issued by the Postal Service, means notes, bonds, debentures, mortgages, and any other evidence of indebtedness.

"§ 1002. Capital of Postal Service

"(a) The initial capital of the Postal Service shall consist of equity of the United States in the former Post Office Department as reflected in the President's budget. The value of assets and the amount of liabilities transferred to the Postal Service upon the commencement of operations of the Postal Service shall be determined by the Commission subject to the approval of the Comptroller General, in accordance with the following guidelines:

"(1) Assets shall be valued on the basis of original cost, less depreciation, to the extent that this can be determined. The value recorded on the former Post Office Department's books of account shall be prima facie evidence of asset value.

"(2) All liabilities attributable to operations of the former Post Office Department shall remain liabilities of the United States, except that upon commencement of operations of the Postal Service, the unexpended balances of appropriations made to, held or used by, or available to the former Post Office Department and all liabilities chargeable thereto shall become assets and liabilities, respectively, of the Postal Service.

"(b) The capital of the Postal Service at any time shall consist of its assets, including the balance in the Fund, less its liabilities.

"(c) The Postal Service, and the Administrator of General Services where properties under the jurisdiction of the Administration are involved, with the approval of the Director of the Bureau of the Budget, shall determine which Federal properties shall be transferred to the Postal Service and which shall remain in the United States upon the commencement of operations of the Postal Service. The transfer shall be accomplished at the time of or as near as possible to the commencement of operations of the Postal Service and the valuation of the assets and capital of the Postal Service shall be adjusted accordingly. The following properties shall be included in the transfer:

"(1) the mail equipment shops located in Washington, District of Columbia;

"(2) all machinery, equipment, and appurtenances of the Post Office Department;

"(3) all real property whose ownership was acquired by the Postmaster General pursuant to former section 2103 of this title, as in effect immediately prior to the effective date of this section, or which immediately prior to such effective date is under the administration of the former Post Office Department for the purpose of constructing a postal building from funds appropriated or transferred to the former Post Office Department, together with all funds appropriated or allocated therefor;

"(4) all real property of which 55 per centum or more is occupied by and under control of the former Post Office Department immediately prior to the effective date of this section;

"(5) all contracts, records, and documents relating to the operation of the departmental service and the postal field service of the former Post Office Department; and

"(6) all other property and assets of the Post Office Department.

"(d) After the commencement of operations of the Postal Service the President is authorized to transfer to the Postal Service, and the Postal Service is authorized to transfer to other departments or agencies of the United States, with or without reimbursement, any property owned by the United States and the Postal Service, respectively, when the public interest would be served by such transfer.

"§ 1003. The Postal Service Fund

"(a) There is established in the Treasury of the United States a revolving fund to be called the Postal Service Fund which shall be available to the Postal Service without fiscal year limitation to carry out the purposes, functions, and powers authorized by this title.

"(b) There shall be deposited in the fund, subject to withdrawal by check by the Postal Service—

"(1) revenues from postal and nonpostal services;

"(2) amounts received from obligations issued by the Postal Service;

"(3) amounts appropriated for the use of the Postal Service;

"(4) interest which may be earned on investments of the fund;

"(5) any other receipts of the Postal Service; and

"(6) the balance in the Post Office Department Fund established under former section 2202 of title 39 as of the commencement of operations of the Postal Service.

"(c) If the Postal Service determines that the moneys of the fund are in excess of current needs, it may request the investment of such amounts as it deems advisable by the Secretary of the Treasury in obligations of, or obligations guaranteed by, the United States, and, with the approval of the Secretary, in such other obligations or securities as it deems appropriate.

"(d) With the approval of the Secretary of the Treasury, the Postal Service may deposit moneys of the fund in any Federal Reserve bank, any depository for public funds, or in such other places and in such manner as the Postal Service and the Secretary may mutually agree.

"(e) The fund shall be available for the payment of all expenses incurred by the Postal Service in carrying out its functions under this title. Neither the fund nor any of the funds credited to it shall be subject to apportionment under the provisions of section 665 of title 31.

"§ 1004. Transitional appropriations

"Such sums as are necessary to insure a sound financial transition for the Postal Service and a rate policy consistent with section 1201 of this title are hereby authorized to be appropriated to the fund without regard to fiscal year limitation.

"§ 1005. Obligations

"(a) The Postal Service is authorized to borrow money and to issue and sell such obligations as it determines necessary to carry out the purposes of this title. The aggregate amount of any such obligations outstanding at any one time shall not exceed $10,000,000,000. In any one fiscal year the net increase in the amount of obligations outstanding issued for the purpose of capital improvements shall not exceed $1,500,000,000, and the net increase in the amount of obligations outstanding issued for the purpose of defraying operating expenses of the Postal Service shall not exceed $500,000,000.

"(b) The Postal Service may pledge its assets and pledge and use its revenues and receipts for the payment of the principal of or interest on said obligations, for the purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve, sinking, and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable. The Postal Service is authorized to enter into binding covenants with the holders of said obligations, and with the trustee, if any, under any agreement entered into in connection with the issuance thereof with respect to the establishment of reserve, sinking, and

other funds, application and use of revenues and receipts of the Postal Service, stipulations concerning the subsequent issuance of obligations or the execution of leases or lease purchases relating to properties of the Postal Service and such other matters as the Postal Service may deem necessary or desirable to enhance the marketability of said obligations.

"(c) Obligations issued by the Postal Service under this section:

"(1) shall be in such forms and denominations;

"(2) shall be sold at such times and in such amounts;

"(3) shall mature at such time or times;

"(4) shall be sold at such prices;

"(5) shall bear such rates of interest;

"(6) may be redeemable before maturity at the option of the Postal Service in such manner and at such times and redemption premiums;

"(7) may be entitled to such relative priorities of claim on the assets of the Postal Service with respect to principal and interest payments; and

"(8) shall be subject to such other terms and conditions;

as the Postal Service determines.

"(d) Obligations issued by the Postal Service under this section shall:

"(1) be negotiable or nonnegotiable and bearer or registered instruments, as specified therein and in any indenture or covenant relating thereto;

"(2) contain a recital that they are issued pursuant to this section, and such recital shall be conclusive evidence of the regularity of the issuance and sale of such obligations and of their validity;

"(3) be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States, and the Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the obligations of the Postal Service acquired by them under this section;

"(4) be exempt both as to principal and interest from all taxation now or hereafter imposed by any State or local taxing authority except estate, inheritance, and gift taxes; and

"(5) not be obligations of, nor shall payment of the principal thereof or interest thereon be guaranteed by, the United States, except as provided in subsection (c) of section 1006 of this chapter.

"§ 1006. Relationship between the Treasury and the Postal Service

"(a) At least fifteen days before selling any issue of obligations under section 1005 of this chapter the Postal Service shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected maximum rates of interest of the proposed issue in appropriate detail and shall consult with him or his designee thereon. The Secretary may elect to purchase such obligations under such terms, including rates of interest, as he and the Postal Service may agree, but at a rate of yield no less than the prevailing yield on outstanding marketable Treasury securities of comparable maturity, as determined by the Secretary. If the Secretary does not purchase such obligations, the Postal Service may proceed to issue and sell them to a party or parties other than the Secretary upon notice to the Secretary and upon consultation as to the date of issuance, maximum rates of interest, and other terms and conditions.

"(b) Subject to the conditions of subsection (a) of this section the Postal Service may require the Secretary of the Treasury to purchase obligations of the Postal Service in such amounts as will not cause the holding by the Secretary of the Treasury resulting from such required purchases to exceed $2,000,000,000 at any one time. This subsection shall not be construed as limiting the authority of the Secretary to purchase obligations of the Postal Service in excess of such amount.

"(c) Notwithstanding subsection (d)(5) of section 1005 of this chapter, obligations issued by the Postal Service shall be obligations of the United States, and payment of principal and interest thereon shall be fully guaranteed by the United States, such guaranty being expressed on the face thereof, if and to the extent that—

"(1) the Postal Service requests the Secretary of the Treasury to pledge the full faith and credit of the United States for the payment of principal and interest thereon; and

(2) the Secretary, in his discretion, determines that it would be in the public interest to do so.

"§ 1007. Public debt character of obligations of the Postal Service

"For the purpose of any purchase of the obligations of the Postal Service, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act, as now or hereafter in force, are extended to include any purchases of the obligations of the Postal Service under this chapter. The Secretary of the Treasury may, at any time, sell any of the obligations of the Postal Service acquired by him under this chapter. All redemptions, purchases, and sales by the Secretary of the obligations of the Postal Service shall be treated as public debt transactions of the United States.

"§ 1008. Audit and expenditures

"(a) The accounts of the Postal Service shall be audited by the Comptroller General and reports thereon made to the Congress to the extent and at such times as he may determine.

"(b) The Postal Service shall maintain an adequate internal audit of its financial transactions.

"(c) (1) Subject only to the provisions of this chapter, the Postal Service is authorized to make such expenditures and to enter into such contracts, agreements, and arrangements, upon such terms and conditions and in such manner as it deems necessary, including the final settlement of all claims and litigation by or against the Postal Service.

"(2) The Postal Service is directed to promote modern and efficient operations and notwithstanding any other provision of this law; to refrain from expending any funds, engaging in any practice, or entering into any agreement or contract which restricts the use of new equipment or devices which may reduce the cost or improve the quality of the postal service, except where such restriction is necessary to insure safe and healthful employment conditions.

"(d) Nothing in this section shall be construed as denying to the Postal Service the power to obtain audits of its accounts and reports concerning its financial condition and operations by certified public accounting firms. Such audits and reports shall be in addition to those required by this section.

"§ 1009. Annual budget

"The Postal Service shall cause to be prepared annually a business-type budget which shall be submitted to the Bureau of the Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget program shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the Postal Serivce may properly carry out its activities as authorized by law. The budget program shall contain estimates of the financial condition and operations of the Postal Service for the current and ensuing fiscal years and the actual condition and results of operation for the last completed fiscal year. Such budget program shall include a statement of financial condition, a statement of income and expense, an analysis of surplus or deficit, a statement of sources and application of funds, and such other supplementary statements and information as are necessary or desirable to make known the financial condition and operations of the Postal Service. Such statements shall include estimates of operations by major types of activities, together with estimates of administrative expenses and estimates of borrowings.

"CHAPTER 12.—RATES AND RATEMAKING

"SUBCHAPTER I—GENERAL PROVISIONS

"Sec.
"1201. Rate policy.
"1202. Free and reduced rate mail.

"SUBCHAPTER II—RATEMAKING

"1251. Postal Rate Board and staff.
"1252. Proposed changes in rates and classification.
"1253. Proceedings and recommended decisions by Postal Rate Board.
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"1255. Service changes.
"1256. Rate and service complaints.
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"SUBCHAPTER I—GENERAL PROVISIONS

"§ 1201. Rate policy

"(a) The Postal Service shall develop and promote adequate and efficient postal services at reasonable and equitable rates and fees. Such rates and fees shall be sufficient to enable the Postal Service under honest, efficient, and economical management to maintain and continue the development of postal service of the kind and quality adapted to the needs of the United States.

"(b) It is the intent of Congress that by January 1, 1978, rates and fees charged by the Postal Service provide, as a whole, revenue adequate, when added to the appropriations pursuant to section 1202 of this chapter, to meet its current and projected costs. For this purpose costs shall include (without limitation) operating expenses, depreciation on capital facilities and equipment, debt service (including interest, amortization of debt discount and expense, and provision for sinking funds or other retirements of obligations to the extent that such provision exceeds applicable depreciation charges), and a reasonable provision for contingencies.

"(c) Except as provided in section 1202 and as otherwise provided in this section, the Postal Service shall establish appropriate classes of postal service and establish rates and fees for each such class of postal service so that at least those costs demonstrably related to the class of service in question will be borne by each such class and not by other classes of users of postal services or by the mails generally.

"(d) Notwithstanding the other provisions of this section, in making changes in the structure of its rates, the Postal Service shall take into account the financial impact upon affected users of the various classes of the mail and, at its discretion, may achieve the policy goals of this section over a duration of time appropriate in view of such financial impact. The Commission shall have the sole discretion to make such determinations. The President may request appropriations authorized by section 1004 of this title as a result of such determinations. Nothing in this subsection, however, shall relieve the Postal Service of its general policy obligation under

subsection (b) of this section to make its revenue, as a whole, including appropriations contemplated by section 1202 of this title, equal its costs.

"(e)(1) Amounts computed as shown in paragraph (2) of this subsection (e) shall be considered public service costs of the Postal Service that should be borne by the public generally during the period prior to January 1, 1978. In addition to amounts otherwise authorized to be appropriated to the Postal Service, the amounts of such public service costs, as estimated by the Postal Service, are authorized to be appropriated for the use of the Postal Service.

"(2) The amounts authorized to be appropriated by paragraph (1) shall be computed as follows:

"(A) for the period commencing on the effective date of this section through December 31, 1972, at an annual rate of 10 per centum of the total costs of the Postal Service for fiscal year 1972;

"(B) for calendar year 1973, 9 per centum of such total costs for fiscal year 1973;

"(C) for calendar year 1974, 8 per centum of such total costs for fiscal year 1974;

"(D) for calendar year 1975, 6 per centum of such total costs for fiscal year 1975;

"(E) for calendar year 1976, 4 per centum of such total costs for fiscal year 1976; and

"(F) for calendar year 1977, 2 per centum of such total costs for fiscal year 1977.

"§ 1202. Free and reduced rate mail

"(a) The Congress by legislation shall determine which classes of postal users, if any, shall be entitled to send mail free of postage or at rates some specified percentage lower than those established by the Postal Service in accordance with the principles of section 1201(c) of this title. The rates of all users so entitled shall be established by the Postal Service so that the amount of postal revenues received from the appropriations provided for in subsection (b) of this section shall approximately equal the difference between the actual postal revenues from users allowed to mail free of charge or at reduced rates and the postal revenues that would have been received from such users if they had not been entitled to so mail.

"(b) The President may annually request the Congress to appropriate to the Postal Service Fund an amount necessary to recover the difference between the actual postal revenue from users allowed to mail free of charge or at reduced rates and the postal revenues that would have been received from such users if they had not been entitled to so mail.

"(c) If the Congress shall fail to appropriate the amount so requested or any part thereof, the Postal Service shall proportionately adjust the rates of the classes of users entitled to mail free or at reduced rates so that the anticipated difference between the actual postal revenues from users allowed to mail free of charge or at reduced rates and the postal revenues that would have been received from such users if they had not been entitled to so mail will be reduced to an amount equal to that appropriated by the Congress.

"(d)(1) Within two years after the effective date of this section and at least every two years thereafter, the Postal Service shall render to the Congress a report showing the volumes, rates, revenues, and costs, the last calculated in such ways as the Postal Service may deem appropriate, of each category of free or reduced rate mail, and the percentage relationship which the rate for such category bears to the rates for users of the same category not entitled to so mail. The Postal Service may report on other matters related to each such category of mail including recommendations as to whether the Congress should continue to afford it preferred treatment or to what extent it should be modified. In preparing the report the Postal Service may cause the Postal Rate Board to conduct proceedings in the nature of rulemaking on matters relevant to the report and to render opinions to the Postal Service as it deems appropriate.

"(2) The report to the Congress shall include a profit and loss statement of the Postal Service certified by a firm of independent certified public accountants, to be chosen by the presidentially appointed Commissioners on a competitive basis. The certification should stipulate that the report does or does not present fairly the results of the operations and that the revenues and costs shown in connection with each class, subclass, and category of mail and for each service, as appropriate, have been reported in accordance with generally accepted accounting principles, supplemented by suitable cost allocation procedures.

"(e) Until changed by law, but subject to subsections (a) and (c) of this section, the following services shall be free or at the reduced rates in effect as of the effective date of this section:

"(1) penalty mailings of the Pan American Union and the Pan American Sanitary Bureau as provided by section 652(a)(1) of this title and free mailing privileges for consular officials and members of the diplomatic corps of the countries of the Postal Union of the Americas and Spain as provided by section 667 of this title;

"(2) reduced rates on books, films, and similar materials as described in former sections 4653–4655 of this title;

"(3) mailings at reduced rates for publication matter as described in former section 4358 of this title;

"(4) free postage on reading matter and other articles for the blind and other handicapped persons as described in former sections 4653 of this title;

"(5) free mailing privileges granted to individuals by law, except where the Postal Service is entitled to reimbursement under chapter 6 of this title;

"(6) reduced third-class postage rates to certain organizations as described in former section 4452 of this title; and

"(7) free postage as provided by section 1472 of title 50, section 302 of the Federal Voting Assistance Act of 1955.

"SUBCHAPTER II—RATEMAKING

"§ 1251. Postal Rate Board and staff

"(a) There is hereby established an independent Postal Rate Board consisting of three members appointed by the President, not more than two of whom shall be from the same political party, and each member appointed to the Board shall be a recognized expert in one of the following fields: the legal profession, economics, cost accounting, engineering, management, or postal rate. One of the Board members shall be designated by the President as Chairman. The Board members shall be paid at the rate provided for level IV of the Executive Schedule, except that the compensation of the Chairman shall be $500 higher than the pay established for level IV. Appointments of succeeding Board members shall be made by the President as hereinbefore provided.

"(b) The Board members shall serve for terms of six years except that—

"(1) the terms of the Board members first taking office shall expire as designated by the President at the time of appointment of the first Board member, one at the end of two years, one at the end of four years, and one at the end of six years following their appointment; and

"(2) any Board member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

For purposes of suspension and removal the Board members shall be deemed to be in the competitive service, and they may be suspended or removed only in accord with the procedures established in section 7521 of title 5.

"(c) The Chairman of the Rate Board, subject to such rules and regulations as may be adopted by the Board, is authorized to—

"(1) appoint and fix the duties of an Executive Director who shall be paid at the rate provided for level V of the Executive Schedule;

"(2) appoint such additional personnel as may be necessary to carry out the functions of the Board; and

"(3) procure the services of experts and consultants under section 3109 of title 5, but at rates for individuals not to exceed the rate for GS–18 of the General Schedule.

"(d)(1) The Rate Board shall promulgate rules and regulations and establish procedures to carry out its responsibilities under this chapter. Such rules, regulations, and procedures shall be subject to chapters 5 and 7 of title 5.

"(2) It is the intent of Congress that the Board conduct its proceedings with the utmost expedition consistent with procedural fairness to the parties. To this end the Board is specifically authorized (but without limitation) to adopt rules which provide for—

"(i) the advance submission of written direct testimony;

"(ii) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

"(iii) discovery both from the Postal Service and the parties to the proceedings;

"(iv) limitation of testimony; and

"(v) the conduct of entire proceedings off the record with the consent of the parties.

"(e) The Chairman shall have the administrative responsibility for assigning the business of the Board to the various Board members and to members of the staff. The Board members may conduct proceedings or otherwise exercise their functions singly or en banc as the Chairman, after consultation with the other commissioners, shall determine. All final acts of the Rate Board shall be by a majority vote thereof.

"(f) The provisions of title 5 concerning hearing examiners shall apply to Board members and to the duties of the Commission and the Civil Service Commission with respect to Board members except as inconsistent with this chapter.

"(g) Upon request of the Chairman, the head of any department, agency, or establishment of any branch of the Government of the United States may detail, on a reimbursable basis, any of the personnel of such department, agency, or establishment to assist the Board in carrying out its functions.

"(h) The Administrator of the General Services, upon request of the Chairman, shall provide administrative support services for the Board on a reimbursable basis.

"(i) The Board may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

"§ 1252. Proposed changes in rates and classifications

"(a) Except as provided in subsection (c) of this section, the Postal Service shall give general notice of proposed change in rates, charges, fees, the classification of mail matter or mail users, and the postal rate structure or design by publishing its proposals therefor in the Federal Register not less than thirty days prior to the date on which it is proposed to adopt such changes. It shall also file the proposed changes with the Rate Board in such form and manner as the Board may prescribe. The notice published in the Federal Register shall state briefly—

"(1) the proposed change;

"(2) the reasons therefor;

"(3) the earliest date on which the Postal Service proposes to adopt the change;

"(4) that interested parties may file objections thereto or a request for a hearing thereon with the commissioners within thirty days after the date of publication of the notice in the Federal Register or such longer period as the notice may prescribe; and

"(5) the place and manner which the Board has fixed for filings with it.

"(b) If no party at interest files a timely objection to a proposed change or a request for a hearing thereon, the Board shall forward the proposed change to the Commission on Postal Rates and Revenues without opinion unless the presidentially appointed Commissioners request to the contrary.

"(c) The provisions of this chapter do not apply to changes in the fees or rates of exchange for international money orders and similar instruments or to changes in international postal rates adopted pursuant to section 405 of this title.

"§ 1253. Proceedings and recommended decisions by Postal Rate Board

"(a) Pursuant to sections 556 and 557 of title 5, the Rate Board shall conduct public hearings in all cases instituted under section 1252(a) of this title in which a party at interest files timely notice with the Rate Board that he desires to be heard.

"(b) The Board shall compile a record consisting of:

"(1) the proposed change and supporting material submitted by the Postal Service;

"(2) the oral testimony, if any, on behalf of the Postal Service, and by or on behalf of any party at interest;

"(3) the written submission, if any, on behalf of the Postal Service and by or on behalf of any party at interest; and

"(4) such other material as the Board Members deem appropriate.

"(c) After consideration of the record, the Board shall render an initial decision to the presidentially appointed Commissioners stating whether in the opinion of the Rate Board the proposed change conforms to the rate policies and other provisions of this title and giving its reasons therefor.

"(d) In the event the Board does not complete its proceedings within ninety days after the notice of proposed changes is filed with it, or in the event that judicial proceedings are instituted under section 1257 of this title, the Postal Service upon thirty days' notice in the Federal Register may put a proposed change into effect temporarily. The interim changes will be effective for a period of not longer than thirty days after the Rate Board has rendered its initial decision to the presidentially appointed Commissioners and the period the change may be before Congress pursuant to section 1254 of this title.

"§ 1254. Final decisions

"(a) The presidentially appointed Commissioners, acting on behalf of the Postal Service, shall make and publish in the Federal Register a final decision on the proposed change in light of the recommended decision of the Rate Board and the record of the proceedings. They may reject the proposed change or they may adopt it—

"(1) as published in the Federal Register pursuant to section 1252 of this title; or

"(2) as proposed in the recommended decision of the Rate Board; or

"(3) with such modifications as they find are supported by the record of the proceedings.

"(b) The Commission, except as to changes enumerated in subsection (m) of this section, shall transmit to the Congress the final decision adopting a change in any proceeding instituted pursuant to section 1252 (a) of this title. The Commission shall transmit the decision to both Houses of the Congress on the same day and to each House while it is in session and shall transmit with the final decision the recommended decision of the Rate Board together with the record of the proceedings.

"(c) The change contained in a final decision transmitted to the Congress pursuant to subsection (b) of this section shall become final at the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the decision is transmitted unless, between the date of transmittal and the end of the sixty-day period, either House adopts a resolution disapproving the change. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session becaue of an adjournment of more than three day to a day certain are excluded in the computation of the sixty-day period.

"(d) Subsections (e)–(k) of this section are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rule only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(e) If the committee to which a resolution with respect to a recommendation has been referred has not reported it at the end of thirty calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same recommendation which has been referred to the committee.

"(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same recommendation.

"(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a recommendation, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(i) Debate on the resolution shall be limited to not more than four hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

"(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a recommendation, and motions to proceed to the consideration of other business shall be decided without debate.

"(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a recommendation shall be decided without debate.

"(l) The final decision may include a provision that the change shall become effective at a time later than the date on which the decision becomes final pursuant to the foregoing provisions of this section.

"(m) Rate changes required by section 1202(c) of this title and rate changes for such special services as the Postal Service may provide, including special delivery, collect on delivery, insurance, registered and certified mail, return receipts, stamped envelopes, and box rents, and similar special or nonpostal services shall become final as provided in the final decision of the Postal Service in accordance with subsections (a) and (1) of this section.

"§ 1255. Service changes

"(a) Except as provided in subsection (d) of this section the Commission shall give public notice of a proposed change in the type, quality, terms, or conditions of any services provided by the Postal Service which substantially affects a postal service provided to users on a nationwide or nearly nationwide basis and which does not involve a proposed change subject to sections 1252–1254 of this title. Public notice shall be given by publishing a notice of the proposed change in the Federal Register. The notice shall state briefly—

"(1) the proposed change;

"(2) the reasons therefor;

"(3) the earliest date on which the Postal Service proposes to adopt the change;

"(4) that interested parties may participate in the proceedings through submission of written material to the Rate Board with opportunity for oral presentation as the Rate Board may determine; and

"(5) the time, place, and manner which the Rate Board has fixed for submission to it.

"(b) Except as otherwise provided in this section, proposals for service changes shall be considered as proposed rules and the Rate Board shall be considered 'the agency' for purposes of sections 551–559 of title 5. The Board shall compile a record consisting of—

"(1) the proposed change and supporting material submitted by the Postal Service;

"(2) the oral testimony, if any, on behalf of the Postal Service, and by or on behalf of any party at interest;

behalf of any party at interest; and

"(3) the written submissions, if any on behalf of the Postal Service, and by or on

"(4) such other material as the Postal Service deems appropriate.

"(c) After consideration of the record, the Rate Board shall render an initial decision as to whether the proposed change, either in its original form or in a modified form, is consistent with the policies of this title. The initial decision shall become the final decision of the Postal Service unless within such time as the Commission establishes by general rule, the Presidentially appointed Commissioners modify the tentative decision in the light of record or revoke the proposal.

"(d) Whenever the Postal Service proposes a change in the type, quality, terms, or conditions of service which substantially and adversely affects the users of such service but on less than a nationwide or nearly nationwide basis, the Postal Service shall—

"(i) comply with the provisions of subsections (a) through (c) of this section; or

"(ii) comply with rules, regulations, or procedures established pursuant to subsections (a) through (c) of this section which

shall include the publication of a notice designed to inform the affected users of the proposed changes and the opportunity for such users to present their objections.

"(e) Whenever the Postal Service finds that an emergency exists which does not permit sufficient time for the procedures prescribed in subsections (a) through (d) of this section, the Postal Service contemporaneously with, or subsequent to, publication in the Federal Register of the notice of a proposed change, may adopt and publish in the Federal Register a temporary change which shall become effective upon publication in the Federal Register or such later date as may be prescribed therein. A change adopted in accordance with this subsection shall remain in effect until proceedings pursuant to subsections (a) through (d) of this section have been completed, or for such shorter period as the Postal Service may fix.

"§1256. Rate and service complaints

"Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Rate Board in such form and in such manner as the Board may prescribe. The Board may in its discretion hold hearings on such complaint. If, after such hearings, the Board determine the complaint to be justified, it shall, if a matter covered by section 1252 of this chapter is involved, recommend to the Commission that the Postal Service propose an appropriate change. The Postal Service shall propose such a change and such change shall proceed as if proposed initially by the Commission. If a matter not covered by section 1251 of this chapter is involved, and the Rate Board members after hearing find the complaint to be justified, they shall render a public report thereon to the presidentially appointed Commissioners, who shall take such action as they deem appropriate.

"§ 1257. Judicial review

"(a) Any final decision of the Postal Service pursuant to section 1254 or 1255 of this title and any final decision of the Rate Board pursuant to section 1256 of this title shall be subject to judicial review. Review shall be in the manner prescribed in chapter 7 of title 5 and chapter 158 and section 2112 of title 28 except as otherwise provided in this section. Such review shall be confined to holding unlawful and setting aside a final decision which the petitioner has shown to be—

"(i) contrary to constitutional right, power, privilege, or immunity;

"(ii) in excess of statutory jurisdiction, authority, or limitations; or

"(iii) without observance of procedure required by law or by the rules promulgated by the commissioners pursuant to this chapter.

The court shall not consider any objection which was not urged in the proceedings of the Postal Service unless there were reasonable grounds for failure to do so.

"(b) Review may be had only by a party to the proceedings who has—

"(i) participated in the proceedings in accordance with section 1253 of this title;

"(ii) participated in the proceedings in accordance with section 1255(a)(4) of this title; or

"(iii) filed a complaint pursuant to section 1256 of this title.

"(c) Petitions for review shall be filed within fifteen days after the publication of notice of the final decision. After the expiration of said fifteen days, a petition may be filed only by leave of court upon a showing of reasonable cause for failure to file such petition. The action shall be against the Postal Service and not against the United States.

"(d) Upon the filing of a petition for review of a final decision under section 1254(a) of this title, the Commission shall not transmit to the Congress its final decision pursuant to section 1254(b) until judicial proceedings under this section are completed. All judicial proceedings shall be made preferred causes and shall be expedited in every way.

"(e) Temporary changes under section 1253(d) and emergency changes under section 1255(e) of this title may not be affected in any way by a court. The thirty-day period after the Board's initial decision referred to in section 1253 shall be extended to include the entire period of judicial proceedings under this section. Final decisions under section 1255 of this title may not be stayed by any court pending review.

"(f) Except as provided under section 1251(d)(1) of this title, no court shall have jurisdiction to review a final decision made by the Postal Service pursuant to this chapter in any manner other than as provided in this section.

"Chapter 14.—PRIVATE CARRIAGE OF LETTERS

"Sec.
"1401. Letters carried out of the mail.
"1402. Foreign letters out of the mail.
"1403. Searches authorized.
"1404. Seizing and detaining letters.
"1405 Searching vessels for letters.
"1406. Disposition of seized mail.

"§ 1401. Letters carried out of the mail

"(a) A letter may be carried out of the mails when—

"(1) it is enclosed in an envelope;

"(2) the amount of postage which would have been charged on the letter if it had been sent by mail is paid by stamps, or postage meter stamps, on the envelope;

"(3) the envelope is properly addressed;

"(4) the envelope is so sealed that the letter cannot be taken from it without defacing the envelope;

"(5) any stamps on the envelope are canceled in ink by the sender; and

"(6) the date of the letter, or its transmission or receipt by the carrier is endorsed on the envelope in ink.

"(b) The Postal Service may suspend the operation of any part of this section upon any mail route where the public interest requires the suspension.

"§ 1402. Foreign letters out of the mail

"(a) Except as provided in section 1401 of this title the master of a vessel departing from the United States for foreign ports may not receive on board or transport any letter which originated in the United States that—

"(1) has not been regularly received from a United States post office; or

"(2) does not relate to the cargo of the vessel.

"(b) The officer of the port empowered to grant clearances shall require from the master of such a vessel, as a condition of clearance, an oath that he does not have under his care or control, and will not receive or transport, any letter contrary to the provisions of this section.

"(c) Except as provided in section 1699 of title 18, the master of a vessel arriving at a port of the United States carrying letters not regularly in the mails shall deposit them in the post office at the port of arrival.

"§ 1403. Searches authorized

"The Postmaster General, by letter of authority over his signature, may authorize any postal inspector or other officer of the Postal Service to make searches for mailable matter transported in violation of law. When the authorized officer has reason to believe the mailable matter transported contrary to law may be found therein, he may open and search any—

"(1) vehicle passing, or having lately passed, from a place at which there is a post office of the United States;

"(2) article being, or having lately been, in the vehicle;

"(3) store or office, other than a dwelling house, used or occupied by a common carrier or transportation company, in which article may be contained.

"§ 1404. Seizing and detaining letters

"A postal inspector, customs officer, or United States marshal or his deputy, may seize at any time letters and bags, packets or parcels containing letters which are being carried contrary to law on board any vessel or on any post road. The officer who makes the seizure shall convey the articles seized to the nearest post office; or by direction of the Postal Service or the Secretary of the Treasury, he may detain them until two months after the final determination of all suits and proceedings which may be brought within six months after the seizure against any person for sending or carrying the letters.

"§ 1405. Searching vessels for letters

"A postal inspector when instructed by the Postal Service to make examinations and seizures and any customs officer without special instructions shall search vessels for letters which may be on board, or which may have been conveyed contrary to law.

"§ 1406. Disposition of seized mail

"Every package or parcel seized by a postal inspector, customs officer, or United States marshal or his deputies, in which a letter is unlawfully concealed, shall be forfeited to the United States. The same proceedings may be used to enforce forfeitures as are authorized in respect to goods, wares, and merchandise forfeited for violation of the revenue laws. Laws for the benefit and protection of customs officers making seizures for violating revenue laws apply to officers making seizures for violating the postal laws.

"Chapter 16.—MISCELLANEOUS

"Sec.
"1601. No postal material or supplies manufactured by convict labor.
"1602. Uniforms and badges.
"1603. Special delivery messengers as employees or carriers.
"1604. Collection of debts.
"1605. Transportation of international mail by air carriers of the United States.
"1606. Penalties and forfeitures imposed for violations.
"1607. Delivery of stolen money to owner.
"1608. Substitute checks.
"1609. Filing of information relating to periodical publications.
"1610. Printing of illustrations of United States postage stamps.

"Except as provided in chapter 307 of title 18, the Postal Service may not make a contract for the purchase of equipment or supplies to be manufactured by convict labor.

"§ 1602. Uniforms and badges

"The Postal Service may prescribe a uniform dress to be worn by letter carriers and other designated employees.

"§ 1603. Special delivery messengers as employees or carriers

"(a) A person temporarily employed to deliver special delivery mail is deemed an employee of the Postal Service, and is subject to the provisions of chapter 82 of title 18 to the same extent as other employees of the Postal Service.

"(b) Any person, when engaged in carrying special delivery mail under contract with the Postal Service, or employed by the Postal Service, is deemed a carrier or person entrusted with the mail and having custody thereof, within the meaning of sections 1701, 1708, and 2114 of title 18.

"§ 1604. Collection of debts

"(a) The Postal Service shall—

"(1) collect debts due the Postal Service, and

"(2) collect and remit fines, penalties, and forfeitures arising out of matters affecting the Postal Service.

The Postal Service may refer any debt that is uncollectible through administrative action to the General Accounting Office for collection. This subsection does not affect the authority of the Attorney General in cases in which judicial proceedings are instituted.

"(b) In all cases of disability or alleged liability to the Postal Service, by way of damages or otherwise, for any sum of money due the United States through accountability for public moneys, or otherwise, under any provision of law, the Postal Service shall determine whether its interests require the exercise of its powers over the same. Upon such determination the Postal Service, on such terms as it deems just and expedient, may—

"(1) remove the disability; or

"(2) compromise, release, or discharge the claim for such sum of money and damages.

"§ 1605. Transportation of international mail by air carriers of the United States

"(a) The Postal Service may offset against any balances due another country resulting from the transaction of international money order business, or otherwise, amounts due from that country to the United States, or to the United States for the account of air carriers of the United States transporting mail of that country, when—

"(1) the Postal Service puts into effect rates of compensation to be charged another country for transportation; and

"(2) the United States is required to collect from another country the amounts owed for transportation for the account of the air carriers.

"(b) When the Postal Service has proceeded under the authority of subsection (a), it shall—

"(1) give appropriate credit to the country involved;

"(2) pay to the air carrier the portion of the amount so credited which is owed to the air carrier for its services in transporting the mail of the other country; and

"(3) deposit in the Postal Service Fund that portion of the amount so credited which is due the United States on its own account.

"(c) The Postal Service, from time to time, may advance to an air carrier, out of funds available for payment of balances due other countries, the amount determined by it to be due from another country to air carrier for the transportation of its mail when—

"(1) collections are to be made by the United States including the Postal Service, for the account of air carriers; and

"(2) the Postal Service determines that the balance of funds available is such that the advances may be made therefrom.

Collection from another country of the amount so advanced shall be made by offset, or otherwise, and the fund from which the advance is made shall be reimbursed by the collections.

"(d) If the United States is unable to collect from the debtor country an amount paid or advanced to an air carrier within twelve months after payment or advance has been made, the United States, including the Postal Service, may deduct the uncollected amount from any sums owed by it to the air carrier.

"(e) The Postal Service shall adopt such accounting procedures as may be necessary to conform to and effect the purposes of this section.

"§ 1606. Penalties and forfeitures imposed for violations

"Unless a different disposal is expressly prescribed one-half of all penalties and forfeitures imposed for violations of law affecting the Postal Service, its revenues or property, shall be paid to the person informing and prosecuting for the same. The other one-half shall be paid into the Postal Service Fund.

"§ 1607. Delivery of stolen money to owner

"When the Postal Service is satisfied that money or property in the possession of Postal Service represents money or property stolen from the mails, or the proceeds thereof, it may deliver it to the person it finds to be the rightful owner.

"§ 1608. Substitute checks

"(a) The Postal Service may authorize the issuance of a substitute check for a lost, stolen, or destroyed check of the Postal Service. Substitute checks shall—

"(1) be marked 'duplicate'; and

"(2) show the number, date, and payee of the original.

"(b) The Postal Service may authorize the issuance of the substitute check (1) upon the execution of a bond agreeable to the Postal Service by the owner, or (2) without bond, upon affidavit of the payee or owner of the original check when the Postal Service is satisfied that the loss, theft, or destruction occurred without the fault of the owner or holder or while the check was in the custody or control of the Postal Service or in the mails.

"(c) Subsections (a), (b), (c), and (d) of section 528 of title 31 do not apply to checks of the Postal Service.

"§ 1609. Filing of information relating to periodical publications

"(a) Each owner of a publication having periodical publication mail privileges shall furnish to the Postal Service at least once a year, and shall publish in such publication once a year information in such form and detail and at such time as the Postal Service may require respecting—

"(1) the identity of the editor, managing editor, publishers, and owners;

"(2) the identity of the corporation and stockholders thereof, if the publication is owned by a corportion;

"(3) the identity of known bondholders, mortgagees, and other security holders;

"(4) the extent and nature of the circulation of the publication, including, but not limited to, the number of copies distributed, the methods of distribution, and the extent to which such circulation is paid in whole or in part; and

"(5) such other information as the Postal Service may deem necessary to determine whether the publication meets the standards for periodical publication mail privileges.

The Postal Service shall not require the names of persons owning less than 1 per centum of the total amount of stocks, bonds, mortgages, or other securities.

"(b) Each publication having such mail privileges shall furnish to the Postal Service information in such form and detail, and at such times, as the Postal Service requires to determine whether the publication continues to qualify for such privileges.

"(c) The Postal Service shall make appropriate rules and regulations to carry out the purposes of this section, including provision for suspension or revocation of periodical publication mail privileges for failure to furnish the required information.

"§ 1610. Printing of illustrations of United States postage stamps

"(a) When requested by the Postal Service, the Public Printer shall print as a public document for sale by the Superintendent of Documents, illustrations of postage stamps of the United States, together with such descriptive, historical, and philatelic information with regard to the stamps as the Postal Service deems suitable.

"(b) Notwithstanding the provisions of section 505 of title 44 stereotype or electrotype plates, or duplicates thereof, used in the publications authorized to be printed by this section may not be sold or otherwise disposed of."

LEGISLATIVE CONSTRUCTION

SEC. 103. An inference of a legislative construction is not to be drawn by reason of the chapter in title 39, United States Code, as set out in section 102 of this Act in which a section is placed nor by reason of the caption or catchline.

CROSS REFERENCE

SEC. 104. Whenever reference is made in another law to a law or part of law which was contained in title 39, United States Code, as it existed prior to the effective date of this section, it shall be considered to mean the appropriate section of title 39, United States Code, as revised by section 102 of this Act, unless no such section is included therein, and whenever reference is made in any other law to the Postmaster General or Post Office Department, the reference shall be considered to mean the Postmaster General and Postal Service provided for in this Act.

EFFECT OF REPEAL OF LAWS

SEC. 105. Provisions of title 39, United States Code, in effect immediately prior to the effective date of this section, but not reenacted by this Act, shall remain in force as rules or regulations of the Post Office Department as reorganized by this Act, to the extent it is authorized to adopt such provisions as rules or regulations, until they are revoked, amended, or revised by the Postal Service.

OUTSTANDING ORDERS, RULES, AND REGULATIONS

SEC. 106. Orders, rules, and regulations in effect under provisions of law repealed, superseded, or amended by this title shall, to the extent they would have been authorized under this title, remain in force and effect as the regulations and orders under the provisions of this title and shall be administered and enforced under this title as nearly as may be until specifically repealed, amended, or revised by the Postal Service.

PRIVATE EXPRESS

SEC. 107. The Congress finds that the restrictions on the private carriage of letters and packets contained in chapter 14 of title 39, United States Code, and section 1694–1696 of title 18, United States Code, are generally in the public interest, but that these sections need further study and evaluation in the light of changes in modern communications. The Postal Service shall submit to the President and the Congress within two years of the enactment of this Act a report and recommendation for the modernization of these provisions of law. In preparing this report the Commission on Postal Costs and Revenues is authorized to cause the Rate Board to conduct a rulemaking proceeding on the topic and to render an opinion to the Commission on whatever topics the Commission deems appropriate.

AMENDMENTS TO TITLE 18, UNITED STATES CODE

SEC. 108. Title 18, United States Code, is amended—

(1) by changing section 12 thereof to read as follows:

"§ 12. Postal Service defined

"The term 'Postal Service' and the term 'United States Postal Sevice', as used in this title, means the 'United States Postal Service' established by section 102 of title 39 and every employee thereof, whether or not he has taken the oath of office.";

(2) by striking out "Post Office Department" in section 441 and inserting in lieu thereof "United States Postal Service";

(3) by amending the first two paragraphs of section 500 thereof to read as follows:

"Whoever, with intent to defraud, falsely makes, forges, counterfeits, engraves, or prints any order in imitation of or purporting to be a money order issued by the Post Office

Department, or by the United States Postal Service, or by any postmaster or agent thereof; or

"Whoever forges or counterfeits the signature of any postmaster, assistant postmaster, chief clerk, or clerk, upon or to any money order, or postal note, or blank therefor provided or issued by or under the direction of the Post Office Department of the United States, or of the United States Postal Service, or of any foreign country, and payable in the United States, or any material signature or indorsement thereon, or any material signature to any receipt or certificate of identification thereof; or";

(4) by amending the last three paragraphs of section 501 thereof to read as follows:

"Whoever makes or prints, or authorizes to be made or printed, any postage stamp, stamped envelope, or postal card, of the kind authorized and provided by the Post Office Department, or by the United States Postal Service, without the special authority and direction of said Department or Postal Service; or

"Whoever after such postage stamp, stamped envelope or postal card has been printed, with intent to defraud, delivers the same to any person not authorized by an instrument in writing, duly executed under the hand of the Postmaster General and the seal of the Post Office Department or the United States Postal Service, to receive it—

"Shall be fined not more than $500 or imprisoned not more than five years, or both.";

(5) by striking out "Post Office Department" in section 612, and inserting in lieu thereof "United States Postal Service";

(6) by striking out "Post Office Department" in section 876, wherever appearing therein and inserting in lieu thereof "United States Postal Service";

(7) by striking out "Post Office Department of the United States" wherever appearing in section 877, and inserting in lieu thereof "United States Postal Service";

(8) by striking out "any postal inspector, any postmaster, officer, or employee in the field service of the Post Office Department," in section 1114, and inserting in lieu thereof "any postal inspector, any postmaster, officer, or employee in the field service of the United States Postal Service";

(9) by striking out "Post Office Department" in section 1341, and inserting in lieu thereof "United States Postal Service";

(10) by striking out "Post Office Department of the United States" in section 1342, and inserting in lieu thereof "United States Postal Service";

(11) by striking out "Postmaster General" in section 1463 and inserting in lieu thereof the "United States Postal Service";

(12) by striking out "section 500 of title 39" in section 1696 and inserting in lieu thereof "section 1401 of title 39";

(13) by striking out "Postmaster General" wherever appearing in section 1699 and inserting in lieu thereof "the United States Postal Service";

(14) by amending subsection (a) of section 1703 thereof to read as follows:

"(a) Whoever, being a postmaster or Postal Service employee, unlawfully detains, delays, or opens any letter, postal card, package, bag, or mail entrusted to him or which shall come into his possession, and which was intended to be conveyed by mail, or carried or delivered by any carrier or other employee of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the United States Postal Service; or secretes, or destroys any such letter, postal card, package, bag, or mail, shall be fined not more than $500 or imprisoned not more than five years or both.";

(15) by amending section 1704 thereof to read as follows:

"§ 1704. Keys or locks stolen or reproduced

"Whoever steals, purloins, embezzles, or obtains by false pretense any key suited to any lock adopted by the Post Office Department or the United States Postal Service and in use on any of the mails or bags thereof, or any key to any lock box, lock drawer, or other authorized receptacle for the deposit or delivery of mail matter; or

"Whoever knowingly and unlawfully makes, forges, or counterfeits any such key, or possesses any such mail lock or key with the intent unlawfully or improperly to use, sell, or otherwise dispose of the same, or to cause the same to be unlawfully or improperly used, sold, or otherwise disposed of; or

"Whoever, being engaged as a contractor or otherwise in the manufacture of any such mail lock or key, delivers any finished or unfinished lock or the interior part thereof or key, used or designed for use by the Post Office Department or the United States Postal Service to any person not duly authorized under the hand of the Postmaster General and the seal of the Post Office Department or the United States Postal Service, to receive the same, unless the person receiving it is the contractor for furnishing the same or engaged in the manufacture thereof in the manner authorized by the contract, or the agent of such manufacturer—

shall be fined not more than $500 or imprisoned not more than ten years or both.";

(16) by amending section 1709 thereof to read as follows:

"§ 1709. Theft of mail matter by postmaster or employee

"Whoever, being a postmaster or Postal Service employee, embezzles any letter, postal card, package, bag, or mail or any article or thing contained therein entrusted to him or which comes into his possession intended to be conveyed by mail, or carried or delivered by any carrier, messenger, agent, or other person employed in any department of the Postal Service, or forwarded through or delivered from any post office or station thereof established by authority of the Postmaster General or the United States Postal Service; or steals, abstracts, or removes from any such letter, package, bag, or mail, any article or thing contained therein, shall be fined not more than $2,000 or imprisoned not more than five years, or both.";

(17) by striking out "Post Office Department" in section 1711, and inserting in lieu thereof "United States Postal Service";

(18) by striking out "Postmaster General" wherever appearing in section 1711, and inserting in lieu thereof "Commission on Postal Costs and Revenues of the United States Postal Service";

(19) by striking out "Post Office Department" in section 1712 and inserting in lieu thereof "United States Postal Service";

(20) by striking out "Postmaster General" wherever appearing in section 1715 and inserting in lieu thereof "United States Postal Service";

(21)(A) by amending the second, third, and fourth paragraphs of section 1716 thereof to read as follows:

"The Postal Service may permit the transmission in the mails, under such rules and regulations as it shall prescribe as to preparation and packing, of any such articles which are outwardly or of their own force, dangerous or injurious to life, health, or property.

"The Postal Service is authorized and directed to permit the transmission in the mails, under regulations to be prescribed by it, of live scorpions, which are to be used for purposes of medical research or for the manufacture of antivenom. Such regulations shall include such provisions with respect to the packaging of such live scorpions for transmission in the mails as the Postal Service deems necessary or desirable for the protection of Postal Service personnel and of the public generally and for ease of handling by such personnel and by any individual connected with such research or manufacture. Nothing contained in this paragraph shall be construed to authorize the transmission in the mails of live scorpions by means of aircraft engaged in the carriage of passengers for compensation or hire.

"The transmission in the mails of poisonous drugs and medicines may be limited by the Postal Service to shipment of such articles from the manufacturer thereof or dealer therein to licensed physicians, surgeons, dentists, pharmacists, druggists, cosmetologists, barbers, and veterinarians under such rules and regulations as it shall prescribe.";

(B) by striking out "Postmaster General" wherever else appearing in section 1716 thereof and inserting in lieu thereof "Postal Service";

(22) by striking out "Postmaster General" in section 1718 and inserting in lieu thereof "Postal Service";

(23) by striking out "Post Office Department" wherever appearing in section 1721 and inserting in lieu thereof "United States Postal Service";

(24) by striking out "Post Office Department" in section 1722 and inserting in lieu thereof "United States Postal Service";

(25) by striking out "the Postmaster General" in section 1723 and inserting in lieu thereof "a duly authorized officer of the Postal Service";

(26) by amending section 1724 thereof to read as follows:

"§ 1724. Postage on mail delivered by foreign vessels

"Except as otherwise provided by treaty or convention the Postal Service may require the transportation by any steamship of mail between the United States and any foreign port at the compensation fixed under authority of law. Upon refusal by the master or the commander of such steamship or vessel to accept the mail, when tendered by the Postal Service or its representative, the collector or other officer of the port empowered to grant clearance, on notice of the refusal aforesaid, shall withhold clearance, until the collector or other officer of the port is informed by the Postal Service or its representative that the master or commander of the steamship or vessel has accepted the mail or that conveyance by his steamship or vessel is no longer required by the Postal Service";

(27) by striking out "Postmaster General" in section 1725 and inserting in lieu thereof "Postal Service";

(28) by striking out "Postmaster General" in section 1729 and inserting in lieu thereof "Postal Service";

(29) by striking out "Postmaster General" in section 1730 and inserting in lieu thereof "Postal Service"

(30)(A) by amending section 1733 to read as follows:

"§ 1733. Mailing periodical publications without prepayment of postage

"Whoever, except as permitted by law, knowingly mails any periodical publication without the payment of postage, or being a postmaster or postal official knowingly permits any periodical publication to be mailed without prepayment of postage, shall be fined not more than $1,000, or imprisoned not more than one year, or both.";

(B) by amending the table of contents of chapter 83 by striking out—

"1733. Affidavits relating to second-class mail."

and inserting in lieu thereof—

"1733. Mailing periodical publications without prepayment of postage";

and

(31) by striking out in section 3061, "Postmaster General" and inserting in lieu thereof "Postal Service".

MISCELLANEOUS AMENDMENTS

SEC. 109. (a) Section 225(f) of the Act of December 16, 1967 (81 Stat. 643; 2 U.S.C. 356), is amended (1) by striking out the word "and" at the end of paragraph (C), (2) by striking out the period at the end of paragraph (D) and inserting in lieu thereof "; and", and (3) by adding following paragraph (D) a new paragraph (E) as follows:

"(E) the members of the Commission on Postal Costs and Revenues appointed pursuant to section 108(b) of title 39, United States Code.".

(b) Subection (d)(1) of section 19 of title 3, United States Code, is amended by striking out "Postmaster General,".

(c) Section 101 of title 5, United States Code, is amended by striking out "The Post Office Department.".

(d)(1) Paragraph seventh of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24 seventh), is further amended by inserting "or by the Postal Service" after "nor to bonds, notes, and other obligations issued by the Tennessee Valley Authority".

(2) Section 602(c) of the Act of August 7, 1956 (70 Stat. 1113), as amended (12 U.S.C. 1701d–3(c)) is amended by striking out "section 306 of the Penalty Mail Act of 1948 (39 U.S.C. 321n)" and inserting in lieu thereof "section 654 of title 39, United States Code".

(3) Section 301(a) of the Housing Act of 1948 (63 Stat. 431), as amended (12 U.S.C. 1701e(a)) is amended by striking out "39 United States Code 321n" and inserting in lieu thereof "39 United States 654".

(e) Section 8(b) of the Small Business Act, as amended by section 107 of the Act of October 11, 1967 (81 Stat. 269; 15 U.S.C. 637 (b)(15)) is further amended by striking out "section 4154 of title 39, United States Code" which appears in paragraph 15 and inserting in lieu thereof "section 654 of title 39, United States Code".

(f) Section 2(f) of the Act of May 28, 1963 (77 Stat. 50; 16 U.S.C. 4601–1(f)), is amended by striking out "section 4154, title 39, United States Code", and inserting in lieu thereof "section 654 of title 39, United States Code".

(g) Section 8 of title 17, United States Code, is amended—

(1) by striking out "Postmaster General" and inserting in lieu thereof "Postal Service"; and

(2) by striking out "section 2506 of title 39" and inserting in lieu thereof "section 1610 of title 39".

(h) Section 1(d) of the Act of June 8, 1938 (52 Stat. 631), as amended (56 Stat. 250; 22 U.S.C. 611(d)), is further amended by striking out "file with the Postmaster General a sworn statement in compliance with section 2 of the Act of August 24, 1912 (37 Stat. 553), as amended", and inserting in lieu thereof, "file with the Postal Service information in compliance with section 1609 of title 39, United States Code".

(i)(1) Section 2341(3) of title 28, United States Code, is amended by striking out paragraphs (B) and (C) and inserting in lieu thereof the following:

"(B) the Secretary when the order was entered by the Secretary of Agriculture;

"(C) the Administration, when the order was entered by the Maritime Administration; and

"(D) the Postal Service when the order was a decision rendered by the Postal Service."

(2) Section 2342 of title 28, United States Code, is amended by striking out subsections (3) and (4) and inserting in lieu thereof:

"(3) such final orders of the Federal Maritime Commission or the Maritime Administration entered under chapters 23 and 23A of title 46 as are subject to judicial review under section 830 of title 46;

"(4) all final orders of the Atomic Energy Commission made reviewable by section 2239 of title 42; and

"(5) all final decisions of the Postal Service made reviewable by section 1257 of title 39.".

(j)(1) The sixth subdivision of section 7 of the Act of July 31, 1894 (28 Stat. 206; 31 U.S.C. 72 Fifth), and the second proviso of section 10 of the Act of August 24, 1912 (37 Stat. 559; 31 U.S.C. 72 Fifth), are repealed.

(2) Section 1 of the Act of March 6, 1946 (60 Stat. 31), as amended (31 U.S.C. 129), is further amended by inserting after "Postmaster General," the following: "the Postal Service,".

(3) Section 1302 of the Act of July 27, 1956, as amended (31 U.S.C. 724a), is further amended by adding the following sentence thereto: "Notwithstanding the other provisions of this section judgments against the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to it.".

(4) Section 1 of the Act of September 30, 1890 (26 Stat. 511; 31 U.S.C. 1028) is hereby repealed.

(k)(1) Section 411(f) of the Public Buildings Act of 1949, as amended (68 Stat. 520; 40 U.S.C. 356(f)) is further amended by striking out in the third proviso "section 205 of the Post Office Department Property Act of 1954" and inserting in lieu thereof "section 1003 of title 39, United States Code".

(2) Item (15) of section 602(d) of the Act of June 30, 1949 (63 Stat. 401), as amended (40 U.S.C. 474(15)) is further amended to read as follows:

"(15) The Postal Service;".

(3) Section 16 of the Act of September 9, 1959 (73 Stat. 483; 40 U.S.C. 615) is amended to read as follows:

"SEC. 16. Nothing in this Act shall be construed to limit or repeal—

"(1) existing authorizations for the leasing of buildings by and for the General Services Administration, or

"(2) the authority conferred by law on the Postal Service.".

(4) The third proviso of section 3 of the Act of August 10, 1939 (50 Stat. 479), as amended (40 U.S.C. 723) is further amended by striking out "insofar as such loss, destruction, or damage may be adjusted by the Postmaster General under the provisions of the Act of March 17, 1882, as amended (U.S.C. 1934 edition, title 39, sec. 49)", and inserting in lieu thereof the following: "insofar as such loss, destruction or damage relates to property of the Postal Service chargeable to its officers or employees".

(5) Section 3a of the Government Losses in Shipment Act as added by section 2 of the Act of August 10, 1939 (53 Stat. 1358; 40 U.S.C. 724), is amended (A) by striking out the colon immediately preceding the proviso and inserting a period in lieu thereof; and (B) by striking out the proviso.

(l) Section 602(l) of the Act of August 20, 1964 (78 Stat. 529; 42 U.S.C. 2942(l)), is amended by striking out "section 4154 of title 39, United States Code" and inserting in lieu thereof "section 654 of title 39, United States Code".

(m) Section 405(l) of the Act of August 23, 1958 (72 Stat. 762; 49 U.S.C. 1375 1375(l)), is hereby repealed.

SEPARABILITY OF PROVISIONS

SEC. 110. If a part of title 39, United States Code, as revised by section 102 of this Act is held invalid, the remainder of the title shall not be affected thereby; and if any other part of this Act is held to be invalid the remainder of the Act shall not be affected thereby.

TRANSITIONAL EXPENSES

SEC. 111. Expenses of the United States Postal Service as established by section 102 of this Act from the date of enactment of this Act until the date of commencement of operations of the Postal Service, shall be deemed to be necessary expenses of the administration of the Post Office Department as now constituted.

APPOINTMENT OF POSTMASTERS AND OTHER EMPLOYEES ON MERIT BASIS

SEC. 112(a) Between the date of enactment of this Act and the effective date of section 102 of this Act, the Postmaster General shall appoint postmasters at offices of all classes in the competitive civil service by one of the three following methods which shall be applied in the following order of precedence:

(1) by selection of a qualified employee serving at the post office where the vacancy occurs, including an acting postmaster who was serving on January 1, 1969, who shall acquire a competitive status upon being appointed postmaster;

(2) if no qualified employee serving at the post office where the vacancy occurs is available for, and willing to accept, appointment by the method described in subparagraph (1), by selection of a qualified employee serving in the postal field service; or

(3) if no qualified employee is available for, and willing to accept, appointment by the methods described in subparagraph (1) or (2), by competitive examination in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service.

Enactment of this subsection shall not affect the status or tenure of postmasters in office on the date of enactment of this Act.

(b)(1) In the selection, appointment, and promotion of employees of the Postal Service between the date of enactment of this Act and the effective date of section 102 of this Act, no political test or qualification shall be permitted or given consideration, and all such personnel actions shall be taken on the basis of merit and fitness. Any officer or employee of the Postal Service who violates this subsection shall be removed from office or otherwise disciplined in accordance with procedures for disciplinary action established pursuant to law.

(2) This subsection does not apply to the selection and appointment of officers whose appointment is vested in the President, by and with the advice and consent of the Senate, or to the selection, appointment, or promotion to a position designated by the Civil Service Commission as a position of a confidential or policy-determining character or as a position to be filled by a noncareer executive assignment.

SUPPLEMENTAL LEGISLATION

SEC. 113. It is the intent of the Congress that further legislation be enacted prior to the date of commencement of operations by the Postal Service as established by this Act, giving additional guidance to the Postal Service concerning the division of costs among the several classes of mail consistent with the provisions of this title.

EFFECTIVE DATES

SEC. 114. This section and sections 110 through 113 of this Act, and sections 108–110 and section 1251 of title 39, United States Code, as enacted by section 102 of this Act shall become effective on the date of enactment of this Act. Except as otherwise provided in this title, the other provisions of this title (including the provisions of title 39, United States Code, as enacted by section 102 of this Act) shall become effective within one year after the enactment of this Act on the date or dates established therefor by the Commission on Postal Costs and Revenues and published by it in the Federal Register.

TITLE II—SALARY ADJUSTMENT

COMPENSATION CHANGES

SEC. 201. (a) The Postmaster General, under regulations made by him, shall increase the rates of basic compensation and basic pay of employees of the Post Office Depart-

ment so that such rates will equal, as nearly as practicable, 108 per centum of the rates of basic compensation and basic pay in effect immediately prior to the date of enactment of this Act. Such increases shall take effect on the first day of the first pay period which begins on or after April 16, 1970. This section does not apply to employees in positions in the Executive Schedule.

(b) Retroactive pay, compensation, or salary shall be paid by reason of this Act only in the case of an individual in the service of the United States (including service in the Armed Forces of the United States) on the date of enactment of this Act, except that such retroactive pay, compensation, or salary shall be paid—

(1) to an officer or employee who retired, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act, for services rendered during such period; and

(2) in accordance with subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act, by an officer or employee who died during such period.

Such retroactive pay, compensation, or salary shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased officer or employee.

(c) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the United States Government.

(d) For purposes of determining the amount of insurance for which an individual is eligible under chapter 87 of title 5, United States Code, relating to group life insurance for Government employees, all changes in rates of pay, compensation, and salary which result from the enactment of this section shall be held and considered to become effective as of the date of such enactment.

TRANSITIONAL COLLECTIVE BARGAINING

SEC. 202. (a) As soon as practicable after the enactment of this Act, the Postmaster General and the labor organizations that as of the effective date of this section hold national exclusive recognition rights granted by the Post Office Department, shall negotiate an agreement or agreements covering wages, hours, and working conditions of the employees represented by such labor organizations. The parties shall commence bargaining for such agreement or agreements not later than thirty days following delivery of a written request therefor by a labor organization to the Postmaster General or by the Postmaster General to a labor organization. Any agreement made pursant to this section shall continue in force after the commencement of operations of the United States Postal Service in the same manner and to the same extent as if entered into between the Postal Service and recognized collective bargaining representatives pursuant to subchapter II of chapter 2 of title 39.

(b) Any agreement negotiated pursuant to this section shall establish a new wage schedule whereunder postal employees will reach the maximum pay step for their respective labor grades after not more than eight years of satisfactory service in such grades. The agreements shall provide that where an employee had sufficient satisfactory service in the pay step he occupied on the effective date of this section to have qualified for advancement to the next highest pay step under the new wage schedule, had such schedule been in effect throughout the period of such service, the employee shall be advanced to such next highest pay step in the new schedule on the effective date of the new schedule.

(c) An agreement made pursuant to this section may become effective at any time after the commencement of bargaining, in accordance with the terms thereof. The Postmaster General shall establish wages, hours, and working conditions in accordance with the terms of any agreement or agreements made pursuant to this section notwithstanding the provisions of any law other than title 39.

(d) If the parties fail to reach agreement within ninety days of the commencement of collective bargaining, a fact-finding panel will be established in accordance with the terms of section 228(b) of title 39, unless the parties have previously agreed to another procedure for a binding resolution of their differences. If the parties fail to reach agreement within one hundred and eighty days of the commencement of collective bargaining, and if they have not agreed to another procedure for binding resolution, an arbitration board shall be established to provide conclusive and binding arbitration in accordance with the terms of section 228(c) of title 39.

(e) Agreements made pursuant to this section and expenditures made under such agreements shall not be subject to the provision of R.S. 3679, as amended (31 U.S.C. 665).

(f) For the purposes of this section only, "Title 39" means Title 39 of the United States Code as revised and reenacted by section 102 of this Act.

"INVASION OF PRIVACY BY MAILING OF SEXUALLY ORIENTED ADVERTISEMENTS

"SEC. 203. (a) The Congress finds—

"(1) that the United States mails are being used for the indiscriminate dissemination of advertising matter so designed and so presented as to exploit sexual sensationalism for commercial gain;

"(2) that such matter is profoundly shocking and offensive to many persons who receive it, unsolicited, through the mails;

"(3) that such use of the mails constitutes a serious threat to the dignity and sanctity of the American home and subjects many persons to an unconscionable and unwarranted intrusion upon their fundamental personal right to privacy;

"(4) that such use of the mail reduces the ability of responsible parents to protect their minor children from exposure to material which they as parents believe to be harmful to the normal and healthy ethical, mental, and social development of their children; and

"(5) that the traffic in such offensive advertisements is so large that individual citizens will be helpless to protect their privacy or their families without stronger and more effective Federal controls over the mailing of such matter.

"(b) On the basis of such findings, the Congress determines that it is contrary to the public policy of the United States for the facilities and services of the United States Postal Service to be used for the distribution of such materials to persons who do not want their privacy invaded in this manner or to persons who wish to protect their minor children from exposure to such material.

"(c)(1) Chapter 31 of title 39, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new sections:

"'§ 3109. Mailing of sexually oriented advertisements

"'(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Board of Governors may prescribe.

"'(b) Any person, on his own behalf or on the behalf of any of his children who has not attained the age of nineteen years and who resides with him or is under his care, custody, or supervision, may file with the Board a statement, in such form and manner as the Board may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Board shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as it may prescribe, including the payment of such service charge as it determines to be necessary to defray the cost of compiling and maintaining the list and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than thirty days.

"'(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Board pursuant to this section.

"'(d) "Sexually oriented advertisement" means any advertisement that depicts, in actual or simulated form, or explicity describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

"'§ 3110. Judicial enforcement

"'(a) Whenever the Board of Governors believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 3109 of this title, it may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, it may issue an order including one or more of the following provisions as the court deems just under the circumstances.

"'(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

"'(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; and

"'(3) a direction to any postmaster at the office at which registered or certified letters or other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 3109 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity alleged to be in violation of section 3109 of this title.

"'(b) The statement that remittances may be made to a person named in a sexually oriented advertisement is prima facie evidence that such named person is the prin-

cipal, agent, or representative of the mailer for the receipt of remittances on his behalf. The court is not precluded from ascertaining the existence of the agency on the basis of any other evidence.

"'(c) In preparation for, or during the pendency of, a civil action under subsection (a) of this section, a district court of the United States, upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated, may enter a temporary restraining order or preliminary injunction containing such terms as the court deems just, including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings. Any action taken by a court under this subsection does not affect or determine any fact at issue in any other proceeding under this section.

"'(d) A civil action under this section may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in any judicial district in which any sexually oriented advertisement mailed in violation of section 3109 has been delivered by mail according to the direction thereon.

"'(e) Nothing in this section or in section 3109 shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 3106, 3107, or 3108 of this title.'

"(2) The table of contents of chapter 31 of such title is amended by adding at the end thereof the following new items:

"'3109. Mailing of sexually oriented advertisements.

"'3110. Judicial enforcement.'

"(d)(1) Chapter 83 of title 18, United States Code, relating to offenses against the postal service, is amended by adding at the end thereof the following new sections:

"'§ 1735. Sexually oriented advertisements

"'(a) Whoever—

"'(1) willfully uses the mails for the mailing, carriage in the mails, or delivery of any sexually oriented advertisement in violation of section 3109 of title 39, or willfully violates any regulation of the Board of Governors issued under such section; or

"'(2) sells, leases, rents, lends, exchanges, or licenses the use of, or, except for the purpose expressly authorized by section 3109 of title 39, uses a mailing list maintained by the Board of Governors pursuant to such section;

shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned not more than ten years, or both, for any second or subsequent offense.

"'(b) For the purposes of this section, the term "sexually oriented advertisement" shall have the same meaning as given it in section 3109(d) of title 39.

"'§ 1736. Restrictive use of information

"'(a) No information or evidence obtained by reason of compliance by a natural person with any provision of section 3109 of title 39, or regulations issued thereunder, shall, except as provided in subsection (c) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding.

"'(b) The fact of the performance of any act by an individual in compliance with any provisions of section 3109 of title 39, or regulations issued thereunder, shall not be deemed the admission or any fact, or otherwise be used, directly or indirectly, as evidence against that person in a criminal proceeding, except as provided in subsection (c) of this section.

"'(c) Subsection (a) and (b) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

"'§ 1737. Manufacturer of sexually related mail matter

"'(a) Whoever shall print, reproduce, or manufacture any sexually related mail matter, intending or knowing that such matter will be deposited for mailing or delivery by mail in violation of section 3108 or 3109 of title 39, United States Code, or in violation of any regulation of the Board of Governors issued under such section, shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned not more than ten years or both, for any second or subsequent offense.

"'(b) As used in this section, the term "sexually related mail matter" means any matter which is within the scope of section 3108(a) or 3109(d) of title 39, United States Code.'

"(2) The table of contents of chapter 83 of such title is amended by adding at the end thereof the following new items:

"'1735. Sexually oriented advertisements.

"'1736. Restrictive use of information.

"'1737. Manufacturer of sexually related mail matter.'

"(e) If any provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of this section and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

"(f) The provisions of this section shall become effective on the first day of the sixth month which begins after the date of enactment of this Act."

EFFECTIVE DATE

SEC. 204. The provisions of this title shall become effective upon enactment of this Act.

Mr. BAKER. Mr. President, I explain that this is the House version of the bill—H.R. 17070—that we voted on last night with three changes. The first is to substitute the Goldwater amendment of last night; second, to substitute the Cook amendment of tonight; and third, to change the review provisions from 90 to 60 days.

UNANIMOUS-CONSENT REQUEST

Mr. President, I ask unanimous consent that there be a time limitation——

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

Mr. BAKER. I yield.

Mr. MANSFIELD. Mr. President, I had thought I would be precluded from offering my book amendment if the substitute amendment now being offered were to pass. If the Senator and his colleagues would like to indulge me, I would like to offer my amendment now as a protective device. I could do it in 5 minutes.

Mr. BAKER. I would be happy to do so.

Mr. MANSFIELD. Mr. President, will the Senator ask leave to lay aside temporarily his amendment?

Mr. BAKER. Mr. President, I ask unanimous consent that my amendment be temporarily laid aside so that the majority leader may offer an amendment to the bill with the understanding that I have the right to the floor at the conclusion of the disposition of action on that amendment.

The PRESIDING OFFICER (Mr. CRANSTON). Without objection, it is so ordered.

AMENDMENT NO. 739

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Washington (Mr. MAGNUSON), the distinguished Senator from California (Mr. CRANSTON), my distinguished colleagues, the Senator from Montana (Mr. METCALF), the distinguished minority leader, the Senator from Pennsylvania (Mr. SCOTT), the distinguished Senator from New York (Mr. JAVITS), and a lot of others, I call up amendment No. 739.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 228, between lines 2 and 3, strike out item 3709 and insert in lieu thereof the following items:

"3709. Uniform rates for books, films, and other materials.

"3710. Limitations."

On page 244, between lines 2 and 3, insert the following new section:

"§ 3709. Uniform rates for books, films, and other materials

"Notwithstanding any other provision of this title, the rates of postage on those items enumerated in former section 4554 of this title shall be uniform for parcels of the same weight, and shall not be based on zones or otherwise vary with the destination of the parcel."

On page 244, line 3, strike out "3709" and insert in lieu thereof "3710".

On page 244, line 6, after "3707" insert "or 3709".

Mr. MANSFIELD. Mr. President, the legislation now being discussed by the Senate, S. 3842, would provide for the transfer of postal ratemaking to the Commission in the U.S. Postal Service except for certain classes of free and reduced mail, such as free mail for the blind, which are continued by law. On behalf of the distinguished minority leader, the senior Senator from Pennsylvania, Mr. SCOTT, and my colleague from Montana, Senator LEE METCALF, I have introduced an amendment continuing the long-standing congressional policy that rates on books, educational and library materials be on a uniform national basis rather than zoned by distance. The amendment preserves to the Commission the function of setting the level of these rates.

The two categories involved are both in section 4554 of the present law. One is the special fourth-class rate first established in 1938 for books, music, educational films and tests, recordings, and other educational materials now set at 12 cents for the first pound and 6 cents for each succeeding pound. The second is the library rate for library materials sent between libraries and between libraries and their patrons; and certain educational materials sent to libraries and schools, first established in the 1920's. This rate permits efficient national, regional, and State systems of interlibrary loan of specialized material between libraries and the serving of citizens in sparsely settled area by mail loans.

Both of these uniform rates serve important educational and cultural pur-

poses, insuring that all citizens, libraries, and educational institutions have the same access to these materials, no matter where they may be located. By contrast, a system of rates zoned by distance—such as the present parcel post schedule—would severely penalize areas remote from publishing and library centers.

Speaking as a Senator from Montana, I am especially concerned about provisions contained in S. 3842 as it applies to library book rates. In Montana, if the special rates are removed, it will mean approximately an additional $130,000 for postage and circulation of library materials in the State. This would mean a reduction in services throughout the State because at the present time Montana is finding it very difficult to meet its other financial obligations. The increased rates, if allowed, would reduce the services to the people of my State. I think we are fully justified in asking for an exception in this case.

The committee report testifies to the value of these rates but does not require the Postal Rate Commission to continue them on a uniform national basis. It sets up a procedure under which they can be phased out over a 5- or 10-year period.

The bill which has passed the House, H.R. 17070, and which was proposed by the administration, goes much further than this amendment. The House bill retains in the hands of the Congress any changes in the level of these rates as well as preserving their uniform national basis; and authorizes annual appropriations for any subsidies which may be involved.

Mr. SCOTT. Mr. President, I am pleased to join with the distinguished majority leader, Mr. MANSFIELD, in calling up our amendment to guarantee that postal rates for books, educational and library materials are maintained on a nationally uniform basis, rather than one based on postal zones or any other system which varies with package destination.

Mr. President, we are dealing here with the Postal Service not as a mere transportation device, but as a vital link in the distribution of educational and cultural materials. Congress has recognized, by repeated enactments over a period of some five decades, that every citizen, every school, and every library should have equal access to these materials regardless of the accident of geography. The same principle has always applied to first-class mail, where the rate is the same, no matter where one lives in this country.

The importance of library materials specifically was first recognized when Congress in the 1920's established, by law, the so-called library rate covering the exchange of library materials between libraries, and between libraries and their patrons. A second special rate for educational materials, started in 1938, allowed a nationwide flat rate for books at the same level as that for the editorial content of magazines and newspapers. Under this rate, which has been continued by successive acts of Congress, the buyers of books, educational films, music and other educational and cultural materials, pay the same transportation charges on their purchases, whether they live near the large publishing centers in the East and Midwest, or whether they live in the most remote areas of the continental or off-shore States.

In addition to establishing and maintaining these special classes of rates for educational materials, Congress also has established a long-term public policy with regard to these rates. Present law sets forth certain classes of mail which the Congress has designated as a public service function not required to bear the full overhead of their cost to the Post Office Department. The special fourth-class rate for books and other educational materials, and the library rate, are among these classes so designated.

Mr. President, the Kappel Commission on Postal Reform, the administration's original proposal on postal reorganization, and the House-passed bill on this subject, H.R. 17070, all go much further than the amendment which I am cosponsoring today. They provide that not only shall there be a flat nationwide rate for library and educational materials, but they also reserve the level of that rate to the Congress itself, rather than turn the question of this rate level over to a Postal Rate Commission.

Our amendment, however, does preserve the essential element of national uniformity. It stipulates, without equivocation, that the rate for educational packages of the same weight "shall not be based on zones or otherwise vary with the destination of the parcel." It is, of course, our hope that members of the Postal Rate Commission, which S. 3842 would establish, will take carefully into account the historical recognition of the importance of educational materials when they are faced ultimately with this rate decision.

California, because of its great distance from the publishing centers of the East and Midwest, serves well to illustrate the need for this amendment. Estimates, based on careful projections, place at $2,019,000, in the first year alone, the additional cost to California libraries for new book purchases that would be needed just to meet increased postage if the present book rate were abandoned in favor of zone parcel post. The cost of the State's program for the exchange between libraries of educational materials already owned, I am told, would similarly increase by $139,703 in the first full year under a parcel zone system.

Again, the need for this amendment is underscored by the experience of a single library system in my own Commonwealth of Pennsylvania, that of Pennsylvania State University. In Pennsylvania, any library can borrow, from any other public, college or research library willing to lend them, materials for its own local users which it does not own. Such lending also extends across State borders, so that potentially the patron of the smallest library has at his disposal, through interlibrary loans, the library resources of much of the Nation.

During the 1968–69 academic year, the Pennsylvania State University Library transacted 14,800 interlibrary loans for Pennsylvania citizens and students. The cost of postage for these loans under the existing library rate was $1,036. Under a zoned system, it is estimated that these same transactions would have cost $10,360, a difference of more than $9,000 in additional expense for this one library system alone. Such a tremendous increase for postage would severely reduce the interlibrary loan services that Penn State—or any other library—would be able to afford or willing to provide.

Increased postal rates would also cut into a library's ability to continue building its own collections, since the cost of most library materials includes postage. Increased yearly costs for the Penn State library system would be about $19,000, including an additional $4,100 for the mailing of books to Commonwealth campuses, and $15,000 for materials formerly received on book rate, and for the absorbing of publisher's increased mailing costs. With the extra $9,000 for interlibrary loan services, the library would be paying an additional yearly total of nearly $30,000. Coupled with Federal and State reductions in library and education funds, such burdens to each library's budget would result in significant losses in the ability to purchase books and to supply interlibrary loan services.

Mr. President, I am pleased to note that this amendment has widespread support, including that of the American Library Association. A letter to me from its Washington office stresses the point that the association had no opportunity to testify on the library and educational rates question in connection with S. 3842.

The letter then adds this plea for enactment:

> Without the Mansfield-Scott provision, libraries of the country, together with other educational institutions and individual library users, would have to pay the zoned-differential increase that might be adopted if S. 3842 is passed in its present form. Only by the guarantee of uniformity, which this amendment would offer, will we have equal treatment for all who use library books, regardless of geographical location.

Mr. President, I join in this plea with the distinguished majority leader, Mr. MANSFIELD, and with the very able Senator from Massachusetts (Mr. BROOKE), an additional cosponsor, in urging prompt and favorable consideration of the pending amendment.

Mr. SCOTT. I am also delighted to encourage anything which will enable the people of our Nation to read more because I think the more they read the more they will agree with me. [Laughter.]

Mr. RANDOLPH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator will state it.

Mr. RANDOLPH. Mr. President, I suggest to the chairman that we are legislating not from our desks but "on the move" as it were, in the Chamber. I hope the Chair will ask Senators to be seated.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until the Senate is in order.

Mr. RANDOLPH. Mr. President, I insist upon my point of order.

The PRESIDING OFFICER. The point of order is well taken. Senators will suspend until the Senate is in order.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. JAVITS. Mr. President, I support this amendment. I am one of the cosponsors. I think the measure is urgently needed and I urge the Senate to accept it.

PRIVILEGE OF THE FLOOR

Mr. McGEE. Mr. President, I ask unanimous consent that a member of my professional staff on the committee be permitted to join me on the floor.

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

Mr. MURPHY. Mr. President, I make a similar request for a member of my staff.

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

Mr. FONG. Mr. President, I make a similar request.

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

Mr. BELLMON. Mr. President, I ask unanimous consent that a member of my staff be allowed the privilege of the floor.

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

Mr. BAYH. Mr. President, I make a similar request.

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

Mr. THURMOND. Mr. President, I make a similar request.

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

Mr. FULBRIGHT. Mr. President, I ask unanimous consent that one of my aides may come to the floor in order to keep me advised.

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

Mr. RANDOLPH. Mr. President, since it seems to be so popular I would like to ask unanimous consent that a member of my staff be permitted to come to the floor.

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

Mr. McCLELLAN. Mr. President, I ask unanimous consent that each Member of the Senate be granted the same request.

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

Mr. HATFIELD. Mr. President, I ask unanimous consent that I be listed as a cosponsor of the measure.

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

Mr. CRANSTON. Mr. President, I believe the issue before us of uniform postal rates for books and other materials relates directly to our national unity in the cause of freedom and equality.

It is basic to our democracy that all of our people have free and easy access to books and other printed materials through our libraries and in our schools. This open circulation of the words and ideas of men is the very currency of our democracy.

I believe we must take whatever steps are necessary and pay the price to assure that we maintain the free flow of printed words throughout our Nation. Furthermore, this is a national question: A book should not cost more in one part of the country than it does in another. The ability to obtain knowledge or to analyze both the wisdom and the foolishness one finds in the products of our bookstores and libraries should be equal for all Americans.

The imposition of zone postal rates for books and other educational materials would end our national equality of access to these basic sources of information and ideas. In addition, it would add substantially to the costs of maintaining our schools and libraries, particularly in the States far removed from the book publishing centers. In a State like California, where the State library must service libraries covering over 150,000 square miles, the added costs of postal zone rates would probably force a substantial curtailment of library services.

Mrs. Carma R. Leigh, the California State Librarian, has presented the economic impact of a zoned parcel post system on California State libraries in a letter to me, which I ask unanimous consent be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CRANSTON. Mr. President, a uniform postal rate for books and similar materials is wise in both principle and practice. I believe we should pass the amendment proposed by our distinguished majority leader.

EXHIBIT 1

THE CALIFORNIA STATE LIBRARY,
Sacramento, Calif., June 5, 1970.

Senator ALAN CRANSTON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR CRANSTON: I have corresponded with you previously regarding S. 3842 and the additional costs to the California State Library that the phasing out of the special fourth class postage rates for books and library materials would create for inter-library loan purposes alone. Our postage budget for this item would increase from $5,000 annually to over $26,000 annually, over 500 percent!

Since last writing to you, additional statistics have been compiled (which are attached). We scanned the orders-received file of the Acquisitions Section of the State Library to determine the source of books purchased for our collection. In Exhibit 1, you will see that we are spending, this fiscal year, $1,470.24 for postage under the special fourth class rate of postage, whereas we would have spent $7,486.55 if zoned parcel post rates had been applied to this material. Postage for books is considered as part of the book budget. If we had had to pay for zoned parcel post rates as part of book costs, that increase would mean the State Library's book acquisitions would have been reduced by more than 600 titles this year, using a figure of slightly less than ten dollars per title. (This is the average cost of the type of specialized books which it is the State Library's responsibility to provide to California residents through their local libraries because the local libraries do not and cannot afford to acquire these. Thus, these books are not available to Californians from other sources.)

In Exhibit II, we compared the number of volumes purchased by the public libraries in California from statistics submitted annually to the California State Library. It is probable that these other California libraries received at least 75% of their new titles from eastern publishers, at an average of three pounds per book, which means the increase in postage to zoned parcel post would reduce those libraries book-buying power by approximately *1.9 million dollars, each and every year!* These same libraries share resources with one another and presently are spending $15,000 (utilizing the special library rate) for inter-library loan mailing which is far more economical and serviceable than for each library to attempt the impossible feat of acquiring everything. With the proposed zoned parcel post rates forced on these libraries, that $15,000 would increase, at a minimum, to over $135,000 annually.

The real outcome would be the stopping of sharing of materials entirely. These data are shown in Exhibit III.

Special libraries (meaning primarily libraries maintained by private businesses and industries) in the state reporting to the State Library (about 75% of all such libraries) indicated they had purchased about 200,000 volumes in 1968/69. Added postage costs to these primarily private libraries would amount to $120,000 annually (or that much reduced book-buying power.) Adding the differences in postage (book-rate vs. zoned parcel post rate) for the California State Library, the 195 public libraries in California, and those special libraries reporting to us, you can see that the book buying potential in California would be decreased by over $2 million dollars. This does not take into account any enormously increased costs/reduced book-buying power for California's academic and school libraries or its local law libraries. It would be an enormous task to gather all the data on this subject from California's 206 higher education libraries, its 81 local law libraries, and its 3,637 elementary and secondary school libraries. However, it is certain that the more than $2 million costs I have vertified for you herewith and in earlier letters would be small in comparison to the costs that would be forced on academic, law, and school libraries of California.

May I respectfully urge, as strongly as I am able, that you take initiative in what I hope will be a Senate floor fight to prevent the destruction of library postal and book rates, or even an increase in existing rates, since all libraries have already suffered very drastic cuts in their book-buying power, due to reduced federal, state and local library budgets.

Sincerely yours,

Mrs. CARMA R. LEIGH,
California State Librarian.

CALIFORNIA STATE LIBRARY

In fiscal year 1969/70, the California State Library has added 9,723 monographic volumes to its collection. The following is a breakdown of the origin of these books:

Source	Number	"Book rate" present postage	Zoned parcel post
Jobber (Reno-truck freight)	2,134	[1]	[1]
Local bookstore	1,463	[1]	[2] $1,151.85
Publishers and dealers:			
Zone 8	3,836	$920.64	4,411.40
Zone 7	636	152.64	667.80
Zone 6	282	67.68	267.90
Zone 5	156	37.44	132.60
Zone 4	438	105.12	328.50
Zone 3	56	13.44	39.20
Zones 1 and 2	722	173.28	469.30
Total		[3] 1,470.24	7,468.55

[1] No postage or transportation charge.
[2] Local bookstore could not absorb $1 per book and would have to add this charge to the cost of the book.
[3] Most publishers and dealers absorb the postage or consider the amount in granting discount rates. This figure is based on the assumption that all publishers and dealers add postage to the invoiced amount.

Note: Difference: $5,998.31. 1 library alone; namely, the California State Library, would be able to buy $6,000 less books in 1 year if zoned parcel post rates replaced the special 4th-class book rate.

INCREASED COST/BOOK-BUYING POWER LOSS TO CALIFORNIA LIBRARIES

If zoned parcel post rates were to replace the special fourth class "book rates" for mailing books from east coast publishers to

libraries in California, the following cost increase or book-buying power loss would result:

Libraries and volumes purchased	"Book-rate" postage	Zoned parcel post postage	Difference
California State Library (9,723 volumes per year)	$1,470.24	$7,468.55	$5,998.31
Other California public libraries (3,117,837 volumes per year)	561,210.48	2,455,295.85	1,894,085.37
Business and industrial libraries (295 out of 400 libraries reporting) (196,198 volumes per year)	35,315.76	154,506.45	119,190.69
University and college libraries (206 libraries)	(1)	(1)	(1)
Law libraries (81 libraries)	(1)	(1)	(1)
Elementary and secondary school libraries (3,637 school libraries)	(1)	(1)	(1)
Total	597,996.48	2,617,270.85	2,019,274.37

[1] No statistics available.

INCREASED OPERATING COSTS FOR INTERLIBRARY LOAN SHIPMENTS FOR CALIFORNIA LIBRARIES

If zoned parcel post rates were to replace the special fourth class "library rates" for shipment of books between libraries, elimination of inter-library loan or the following operating cost increase would result:

Libraries and volumes lent	Library-rate postage	Zoned parcel post postage	Difference
California State Library (26,725 packages mailed)	$5,088.92	$26,028.95	$20,940.03
Other California public libraries (195) (86,168 volumes loaned)	14,333.48	133,096.60	118,763.12
Business and industrial libraries (400 libraries)	(1)	(1)	(1)
University and college libraries (206 libraries)	(1)	(1)	(1)
Law libraries (81 libraries)	(1)	(1)	(1)
Elementary and secondary school libraries (3,637 libraries)	(1)	(1)	(1)
Total	19,422.40	159,125.55	139,703.15

[1] No statistics available.

Mr. MURPHY. Mr. President, as a cosponsor of this amendment I rise to urge its adoption by the Senate. My office has received a great deal of correspondence from California librarians and concerned citizens pointing out the adverse effect of this bill, as reported to the Senate by the Senate Post Office and Civil Service Committee, would have on California libraries. As a member of the Education Subcommittee, I have supported the various programs designed to assure the Nation and California adequate libraries, books, and materials. I know the importance of libraries to our school system and to the education process as well as the important role they play in providing enrichment and continuous educational opportunities for all of our citizens.

I support postal reform; there is no question that it is needed. However, in bringing about this much-needed reform, we should not harm our Nation's libraries. Two provisions of present law are involved in the Mansfield-Murphy amendment. One involves the special fourth-class rates for books and other educational materials. The second is the library rate for books and materials sent between libraries and their patrons. This latter provision has permitted and encouraged interlibrary loans of materials and the serving of citizens in sparsely settled rural areas.

Under present law, the rates for both of these categories are on a uniform national basis rather than zoned by distances. The Mansfield-Murphy amendment, although allowing the commission created by the Post Office reform bill to set rates, requires, as does present law, that the rates established be uniform throughout the country.

The uniform rates on both of these categories serve important educational and cultural purposes. Uniform rates mean that books and educational materials will be equally available to all American citizens no matter where they reside. On the other hand, if a system such as the present parcel post zone system were adopted, areas removed or remote from publishing and library centers would be severely penalized. A survey of California public library purchases of new books indicated that probably the last 75 percent of the new volumes published came from eastern publishing houses. Naturally, the zone rates would have an adverse impact in California.

This amendment has the strong support of the American Library Association. It is strongly supported by the libraries in my State, and I am sure by the Western States in the Nation. Mr. President, what would be the effect on Western States if the Mansfield-Murphy amendment were not adopted? According to Mrs. Carma R. Leigh, California State librarian, if the zoned postal rates were adopted, it would cost the California State Library, the 195 public libraries in California, and some of the special libraries that report to Mrs. Leigh, over $2 million. And, Mr. President, the $2 million does not include the increased cost for California's academic and school libraries, or the local law libraries. The reason the latter figures are not included, according to Mrs. Leigh, is that—

It would be an enormous task to gather all this data on this subject for California's 206 higher education libraries, its 81 local law libraries and its 3,637 elementary and secondary school libraries.

Mrs. Leigh added, however:

I am sure that the more than $2 million cost I have verified for you . . . would be small in comparison to the cost that would be forced on academic, law and school libraries of California.

Mr. President, one of the functions of a California State Library is to provide specialized books which local libraries do not and, indeed cannot, afford to acquire. These specialized books then, if not available at the State libraries, would not be available to California citizens from other sources. The State library is the source for these specialized volumes. Yet, if the California State Library had to pay zoned rates, it would have to reduce by 600 the number of books they purchase.

With respect to the interlibrary loan program, zoned rates would have the effect of increasing the cost from a present $15,000 to a minimum of over $135,000 annually. Mrs. Leigh warns, the real outcome would be the stopping of sharing materials entirely. Mr. President, I strongly urge adoption of this amendment by the Senate which is so important to my State's libraries, which in turn are so important to the education of California citizens.

I ask unanimous consent that a letter and enclosed documents from Mrs. Leigh be printed in the RECORD.

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

THE CALIFORNIA STATE LIBRARY,
Sacramento, Calif., June 5, 1970.

Hon. GEORGE MURPHY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MURPHY: I have corresponded with you previously regarding S. 3842 and the additional costs to the California State Library that the phasing out of the special fourth class postage rates for books and library materials would create for inter-library loan purposes alone. Our postage budget for this item would increase from $5,000 annually to over $26,000 annually, over 500 per cent!

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In Exhibit II, we compared the number of volumes purchased by the public libraries in California from statistics submitted annually to the California State Library. It is probable that these other California libraries received at least 75% of their new titles from eastern publishers, at an average of three pounds per book, which means the increase in postage to zoned parcel post would reduce those libraries' book-buying power by approximately $1.9 million dollars, each and every year!

These same libraries share resources with one another and presently are spending $15,000 (utilizing the special library rate) for inter-library loan mailing which is far more economical and serviceable than for each library to attempt the impossible feat of acquiring everything. With the proposed zoned

parcel post rates forced on these libraries, that $15,000 would increase, at a minimum, to over $135,000 annually. The real outcome would be the stopping of sharing materials entirely. These data are shown in Exhibit III.

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May I respectfully urge, as strongly as I am able, that you take initiative in what I hope will be a Senate floor fight to prevent the destruction of library postal and book rates, or even an increase in existing rates, since all libraries have already suffered very drastic cuts in their book-buying power, due to reduced federal, state and local library budgets.

Sincerely yours,

Mrs. CARMA R. LEIGH,
State Librarian.

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Note: Difference: $5,998.31. 1 library alone; namely, the California State Library, would be able to buy $6,000 less books in 1 year if zoned parcel post rates replaced the special 4th-class book rate.

INCREASED COST/BOOK-BUYING POWER LOSS TO CALIFORNIA LIBRARIES

If zoned parcel post rates were to replace the special fourth class "book rates" for mailing books from east coast publishers to libraries in California, the following cost increase or book-buying power loss would result:

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Law libraries (81 libraries)	(1)	(1)	(1)
Elementary and secondary school libraries (3,637 school libraries)	(1)	(1)	(1)
Total	19,422.40	159,125.55	139,703.15

[1] No statistics available.

Mr. McINTYRE. Mr. President, I want to congratulate the distinguished Senators from Montana, California, and Pennsylvania for introducing an amendment which has the effect of continuing an eminently worthwhile public service function of the Post Office. I refer to the nationwide uniform rate for educational, library and cultural materials sent through the mails.

The bill, without this amendment, would permit the phasing out of the book and library rates within five and ten year periods respectively. If the book rate is phased out it means that nothing is left for the shipment of books except zoned parcel post which was the situation more than thirty years ago when President Franklin Roosevelt first created the book rate by Executive order. The real penalty of a system of zoned rates would fall on the individual reader, our schools, and our libraries.

These rates play a very important educational and cultural role. The uniform rate on books permits consumers of books, for it is they who pay the postage, to secure a book through the mails at the same postage cost whether they live in areas remote from the eastern publishing centers or whether they live in adjacent areas. For example, a single book weighing one to two pounds being shipped from Chicago to New Hampshire at the present book rate would be 18 cents. Under zoned parcel post the cost would be 66 cents. I am advised by the New Hampshire State Librarian that in the last fiscal year they mailed 30,000 books at a cost of $2,100. Without the library rate the cost would be $18,000, a burden they would be unable to absorb. It is a system which is discriminatory by region and which works to obviate our desire for intellectual and cultural growth.

I hope the Senate will overwhelmingly join in support of this amendment.

Mr. McGEE. Mr. President, we have had a consultation and in view of the fact this is not in the House measure we have agreed to take the proposal. There is unanimity on the proposal to take it to conference on the Senate side. Therefore, it will not be necessary to ask for a rollcall vote.

Mr. MANSFIELD. Mr. President, I am perfectly agreeable but I would like to request a standing vote, if I may.

The PRESIDING OFFICER. Do Senators yield back the remainder of their time?

Mr. McGEE. I yield back the remainder of my time.

Mr. MANSFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Does the Senator from Montana ask for a division on the vote?

Mr. MANSFIELD. I do.

The PRESIDING OFFICER. A division is called for.

On a division, the amendment was agreed to.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is it my understanding, under the provisions of the previous agreement, that after the disposition of the measure of the Senator from Montana, the Senator from Tennessee is to be recognized?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Who yields time for these inquiries?

Mr. McGEE. Mr. President, I yield time.

Mr. BAKER. There is no controlled time at this point.

Mr. McGEE. I am glad to yield time if it is necessary.

Mr. DOLE. Mr. President, is an amend-

ment in order to the substitute of the Senator from Tennessee?

The PRESIDING OFFICER. It would be in order once all time has been used or yielded back by the Senator from Tennessee.

Mr. BAKER. Mr. President, I ask unanimous consent that the time be controlled by the junior Senator from Tennessee as the proponent, and whomever may be designated on behalf of the opponents, and that the time be limited to 10 minutes on each side.

Mr. MAGNUSON. Mr. President, reserving the right to object, I wish to state that I have been standing here and I have not been able to be recognized.

I have an amendment which pertains to the Senate bill. I wish to ask this question: If the Senator's amendment should carry, would I have a right to present my amendment?

Mr. BAKER. I would be glad to propound that inquiry to the Chair. It is my understanding the Senator has the right to offer that amendment, but after the amendment I have offered has been agreed to it would be precluded.

Mr. MAGNUSON. Does the Senator from Tennessee intend to shut off all amendments?

Mr. BAKER. I do not.

Mr. MAGNUSON. That is what the Senator would be doing.

Mr. BAKER. The Senator from Washington is at liberty at this time to offer his amendment. I understand there is a time limitation of 1 hour.

Mr. MAGNUSON. I offer my amendment.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is there now a time limitation of 10 minutes to each side on the amendment I offered?

The PRESIDING OFFICER. There is a time limitation on the Senator's amendment of 1 hour. No other amendments can be entertained until the Senator's time has expired or the Senator yields.

Mr. MAGNUSON. Mr. President, I wish to offer my amendment.

The PRESIDING OFFICER. The Senator from Washington cannot introduce the amendment until the time has expired or until the Senator from Tennessee relinquishes the time on his amendment.

Is there objection to the request for a limitation of 10 minutes on each side?

The Chair hears no objection, and it is so ordered.

Who yields time?

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is the time limitation of 10 minutes on a side in effect on my amendment now?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Is the junior Senator from Tennessee correct when he says that at the end of that 20 minutes, or after it shall have been yielded back, the Senator from Washington will be at liberty to introduce his amendment, prior to the vote on my amendment, and the 1-hour debate limitation would apply on that?

The PRESIDING OFFICER. The Senator is correct. The Senator from Washington could offer his amendment and at that time he would have 1 hour.

Mr. MAGNUSON. Mr. President, I think the Senator from Tennessee should be fair about this and not cut off all amendments. I will not be more than 5 minutes.

Mr. BAKER. Mr. President, if I may respond, I have no desire to cut off anyone's amendment. I hope the statement I just made indicates my understanding that at the conclusion of this 20-minute period, or when time is yielded back, the Senator from Washington could offer his amendment without the permission of anyone and would be entitled to 1 hour equally divided.

Mr. MAGNUSON. Before the vote.

Mr. BAKER. Yes.

Mr. MAGNUSON As long as we have that understanding I shall withhold.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Mr. President, is that the parliamentary situation?

The PRESIDING OFFICER. The Senator is exactly correct. Who yields time?

Mr. BAKER. I yield myself 5 minutes.

Mr. MAGNUSON. Mr. President, I have just been informed by members of the committee that if I attach my amendment to the amendment of the Senator from Tennessee, and the amendment of the Senator from Tennessee is defeated, then my amendment would also be defeated. Why does the Senator not allow me to present my amendment and then he can present his amendment?

Mr. BAKER. Mr. President, I ask unanimous consent that the time consumed by the parliamentary inquiries not be charged to the time allocated for this amendment.

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

Mr. BAKER. Mr. President, a parliamentary inquiry. Is it correct that after the conclusion of this measure, and if the distinguished Senator from Washington offers his amendment to my substitute, and if my substitute does not pass, he would still be at liberty to offer his amendment again to the Senate bill without prejudice?

The PRESIDING OFFICER. The Senator is correct.

Mr. MAGNUSON. If it passes.

Mr. BAKER. Then the Senator is riding with me.

Mr. MAGNUSON. Well, that is not where I want to go. [Laughter.]

Mr. BYRD of West Virginia. Mr. President, may we have order.

Mr. MAGNUSON. Mr. President, I merely want to offer an amendment to the bill that is pending. I am trying to take a very short time. I cannot help it if my friend from Illinois has to leave. I have had to leave the Senate on occasion and no one ever did that for me and cut off all amendments. If this practice is followed we would never get anything done.

Mr. BAKER. Mr. President, while we are still not charging the time, I wish to ask if the junior Senator from Tennessee is correct in stating to the Senator from Washington that no one is cutting off his right to offer any amendment now or later.

Mr. MAGNUSON. But if the Senator's amendment carries, there is no amendment.

The PRESIDING OFFICER. The Senator is correct. That is normal procedure.

Mr. MAGNUSON. Even if for no other reason I had to vote no, this is another reason why I am going to vote "no," but I do not know why the Senator should shut off these other amendments.

Mr. BAKER. Mr. President, I yield myself 5 minutes.

It is not my intention to detain the Senate very long. What I have done is to offer a revised version of the House-passed bill, H.R. 17070, as a substitute for the Senate bill. The changes made from last night's proposal are:

On page 159, following line 10, we have added a new section 203 dealing with invasion of privacy by sexually oriented advertising, which is the Goldwater amendment adopted last night.

On page 116, on lines 4, 6, and 12, we have stricken the word "ninety" and inserted in lieu thereof "sixty," with the result that we have reduced the time in which Congress can review the action of the special committee.

On page 15, following line 25, we have added a new subsection (6) as an addition which is the Cook equal rights for women amendment that we just adopted.

And now at this point, I ask unanimous consent that I may add, at the appropriate place, the Mansfield amendment, adopted tonight, as a part of this substitute.

The PRESIDING OFFICER. The Senator has the right to so modify his amendment.

Mr. BAKER. And I so modify it.

Mr. President, this is simply and directly a proposal by the junior Senator from Tennessee to offer the House-passed version with these modifications for the Senate bill. I reserve the remainder of my time.

Mr. McGEE. Mr. President, we are witnessing here, in my judgment, the consequences——

Mr. STENNIS. Mr. President, may we have order? I have been here 15 or 20 minutes and I am unable to hear, two rows removed. I think the Chair has a duty to protect Senators who want to hear.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Wyoming may continue.

Mr. McGEE. Mr. President, we are witnessing here now the consequences of trying to shoot from the hip on the floor. We have talked at great length about the desire to take a clean and solid bill to conference with many differences from the House bill. It is important that the Senate be protected in its bargaining

position as considerably as we can, and we are not going to succeed in this way.

I would hope that the Members of this body would recall that last night we had a vote on the measure that is now pending, the substitute bill submitted by the Senator from Tennessee, and the vote was 48 to 41. I would hope that Members of this body would reaffirm that ballot in this new effort to move the bill through substitute tonight.

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

Mr. McGEE. I am glad to yield to my colleague, who is the ranking minority member of the committee.

Mr. FONG. Mr. President, I, too, oppose this substitute amendment. Last night we had a similar amendment. The only difference between this amendment and last night's amendment, which we voted down, is that it contains three provisions, two of which were added last night and one tonight, and the reduction of 90 days to 60 days.

As I said last night, the House bill was amended on the floor of the House with 14 amendments. Altogether there were 40 amendments which were tacked onto the House bill, but only 14 of them were adopted.

The Committee on Post Office and Civil Service of the Senate worked very hard and diligently on the bill. We have spent more than a year on the bill, and we have had approximately 17 versions of a postal reform bill, until we finally arrived at this bill.

Mr. President, this bill is not a simple bill. One can see by the thickness of it that it deals with many subjects having to do with the Post Office. As I said last night, although Members of the House have a great deal of wisdom and expertise, not all the wisdom and expertise lie in the House. Some wisdom and expertise lie in the Senate, and we have given the Senate a pretty good bill, we believe. We would like to go to conference with the House conferees and work out a very good bill.

The Postmaster General has many objections to the bill which is now before the House. I am quite sure that if we could allow our bill to go through with few amendments, we could arrive at a very good, landmark bill.

The legislation we are going to pass in this Congress dealing with postal reform will be really landmark legislation, and I ask my colleagues to give the Senate conferees a chance to work on the bill with the conferees of the House.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I yield back my time.

Mr. BAKER. Mr. President, I am prepared to yield back the remainder of my time. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read the amendment, as follows:

Add a new title III at the end of the bill as follows:

"TITLE III—RATE ADJUSTMENT

"AUTHORIZATION TO POSTMASTER GENERAL

"SEC. 301. The Postmaster General is authorized to adjust the postage rates and charges in sections 4253, 4303(a)–(d)(1), 4422, 4452, and 4554 of title 39, United States Code, by increasing them by not more than 33⅓ percent, and the postage rates and charges in section 4359 of title 39, United States Code by increasing them by not more than 50 percent. The postage adjustments made by the Postmaster General under this section shall become effective on the dates fixed by him.

"EFFECTIVE DATE

"SEC. 302. The provisions of this title shall become effective upon enactment of this Act."

The PRESIDING OFFICER. Does the Senator from Kansas offer it as a committee substitute or as an amendment?

Mr. DOLE. To the committee substitute.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, can we agree on a limitation of time?

Mr. McGEE. Is 5 minutes on a side agreeable?

Mr. DOLE. I would prefer 10 minutes.

Mr. McGEE. Ten minutes on a side.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Mr. DOLE. Mr. President, I have discussed this amendment with both the chairman and the ranking minority member of the committee. They are both opposed to it.

Let me explain the amendment very briefly.

The bill as reported by the Senate Committee on Post Office and Civil Service would require the Post Office Department to continue to operate as a department until a date fixed by the Board of Governors, but no later than 1 year after enactment. Thus, under this arrangement, postage rates will continue to be governed by laws in effect on the day of enactment and will remain unchanged for 1 year, unless the Postal Service begins operations sooner.

The proposed amendment would authorize some rate changes to be made before the Postal Service officially begins its full-scale operations. Such changes would be instituted by the Postmaster General and shall become effective on the dates to be fixed by him.

Effective in December 1969, all postal employees were given a 6-percent increase in pay. We are now considering a further basic increase of 8 percent plus significant liberalization of other compensation features.

I have been advised by the Postmaster General that, without a general increase in postage rates, we face the prospect of a postal operating deficit of $2.5 billion in fiscal 1971. At a time when we are fighting vigorously to contain rising interest rates, so huge an addition to Federal deficit financing must surely be avoided.

I am also concerned over the ominous prospect of a $2.5 billion deficit for other reasons. It seems unwise, in my judgment, to ask the new Postal Service to begin its operations with the burden of the largest postal deficit in the history of our Nation.

Further, it is patently a contradiction of the intent of the legislation we are now considering to ask the taxpayers of our Nation to pay for so massive a deficit.

My amendment pertains only to the transitional period between enactment of postal reorganization and the date on which the Postal Service would begin its operations. In brief, during that period I propose the Postmaster General be granted authority to revise certain rates within prescribed limits.

I have excluded any changes that would affect certain non-profit-organization rates. Finally, I have excluded authority to alter parcel post or other fourth-class rates which can now be modified only with the consent of the Interstate Commerce Commission.

Mr. President, if the Postmaster General did act during this transitional period, and did impose the maximum rate prescribed in the amendment, it would raise approximately $1.5 billion, and there would still be a deficit, when the new Postal System starts, of about $1 billion. If the Postmaster General did invoke the increases, or did make the increases prescribed, he could go up to 8 cents on first-class mail and up to a 50-percent increase on second class. The first class increase would raise about $1.2 billion, and the balance would come from second- and third-class mail.

Mr. President, let me state again that I feel this is an amendment that deals primarily with fiscal responsibility, and with the question that I have indicated in my statement: Should the new system start off with the largest deficit in our history?

I understand this matter was considered briefly by the committee. It was apparently rejected by the committee, and was not offered as an amendment to the committee bill.

With that, I rest my case.

Mr. McGEE. Mr. President, very quickly on the point, the committee did indeed not only weigh this with great care, but discussed it at great length with the Postmaster General and his staff, and we reached the conclusion together—not the committee, but the committee and the Postmaster General—that it was not wise to put a rate increase in the postal reform bill, basically because in the bill there is an intricate mechanism for a new rate-making procedure in the reorganization, and it was felt that that kind of arbitrary increase in this bill would impinge upon and in other ways inhibit the attempt to get a new, independent postal agency off the ground.

Therefore, we had hoped and would still expect to receive from the President or the administration a request for what rate adjustments might be in order, and we would then consider those separately; and that was our understanding with the administration.

We do not believe it belongs in this bill, and it is not effectively a part of this piece of legislation. I do not think we ought to obscure or obstruct the chances for meaningful postal reorgani-

zation. We are very close to it now, and this can be dealt with on its own merits subsequently.

Several Senators addressed the Chair.

Mr. McGEE. I am happy to yield to my colleague on the committee.

Mr. FONG. I ask the Senator, did we not meet with the Postmaster General and discuss with him whether we should include in this bill an increase in rates?

Mr. McGEE. Indeed we did. That was the issue.

Mr. FONG. Did he not say that he did not wish to seek an increase in rates in this bill?

Mr. McGEE. His specific declaration to both the ranking Republican member and the chairman of the committee was that he did not believe there should be this increase in this postal reorganization bill.

Mr. FONG. Mr. President, I reiterate what the distinguished Senator from Wyoming has said, that the Postmaster General feels that there should not be a rate increase in this bill, that this bill should go on its own merits, and we should discuss the question of rate increases in a separate bill.

I wish to say, Mr. President, that ratemaking is not an easy affair. It involves a lot of things. We are talking in terms of $6 billion revenue to the Post Office Department, and we cannot very well just come here and say, "Raise this rate 33⅓ percent and that rate 10 percent."

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

Mr. FONG. I yield.

Mr. MURPHY. I am becoming very confused. I have heard an amendment stated here which does not raise the rates; there is no mention of raising the rates. It does not insist on raising the rates; it merely says that it gives the Postmaster General the right to do so within certain limitations. So if the Postmaster General does not want to raise the rates, there is nothing in the amendment that forces him to do so.

I can understand the desire for a clean bill, and I can also understand that it does not make very good sense, at least to me, to start a new reorganization plan with a deficit of $2.5 billion, if it can be avoided.

That, as I understand, is all that the amendment of the Senator from Kansas suggests. It does not raise any rates; it leaves that to the discretion of the Postmaster General. I will stand corrected if I heard him wrong, but I believe that is what his amendment says.

Mr. FONG. Mr. President, we have discussed this matter with the Postmaster General, and it has been the concensus of opinion that we should handle this in a separate bill.

In the bill we have proposed to the Senate, we have a very intricate system of coming up with rates. We have built into the Senate bill a rate commission, entirely independent of the Postmaster General. Of course, we know that the Postmaster General wants this postal rate commission to be subservient to him and his governing board; but the Senate committee, in its wisdom, felt that the rate commission should not be under the surveillance and the jurisdiction of the Postmaster General.

Mr. MURPHY. Mr. President, will the Senator yield further?

Mr. FONG. Yes.

Mr. MURPHY. I agree completely that to confuse this issue is not a good thing. The Senator says that the committee will handle the rates under a separate bill. I agree that that is preferable; but we still have the unfortunate condition that immediately, and obtaining from now until the time that the bill becomes operative—hoping it will be passed—there will be created this deficit of $2.5 billion.

Is there any other machinery that the distinguished Senator from Hawaii can suggest on an interim basis, not on a permanent basis, but merely to give this new operation a chance to start without a deficit of $2.5 billion? That is my only concern.

Mr. FONG. Mr. President, nothing in this bill prevents the President from appointing his rate commission and having the rate commission go to work immediately and propose to the board of governors an increase in rates.

Because of that, because that possibility exists, because the President could appoint his rate commission and his rate commission can go to work immediately, there is no reason why we should, at this time, try to give the Postmaster General the power to increase rates as he sees fit.

Mr. MURPHY. I thank my distinguished colleague for the explanation.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. McGEE. Is the Senator from Kansas ready to vote?

Mr. DOLE. Yes.

Mr. McGEE. In that case, I yield back the remainder of my time.

Does the Senator wish a rollcall vote?

Mr. DOLE. No.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The amendment was rejected.

Mr. JAVITS. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The BILL CLERK. The Senator from New York (Mr. JAVITS) proposes an amendment as follows:

On page 32, after line 10, insert at the end of section 222(b) the following: "except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized by Section 8(a)(3) of the National Labor Relations Act."

The PRESIDING OFFICER. Is the amendment offered to the committee amendment, or to the Baker amendment?

Mr. JAVITS. It is offered to page 32, line 6 of the Baker amendment, which is the text of H.R. 17070.

Mr. President, I was mistaken about line 6. I modify my statement. The amendment, as read by the clerk, comes after the last word on line 10, page 32.

The PRESIDING OFFICER. Is the Senator referring to the Baker amendment?

Mr. JAVITS. Yes, with the appropriate correction in punctuation.

Mr. President, I am perfectly willing to accept the time limitation, but before I do that, I ask for the yeas and nays.

I ask unanimous consent that there be a time limitation of 20 minutes, 10 minutes to each side.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Under whose control will the time be?

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. FANNIN. Reserving the right to object, I intend at the proper time to offer a motion to table this amendment. So I would like to reserve time for speaking on that point.

Mr. JAVITS. Let us make it a half hour, with 15 minutes on each side, and I will yield 5 minutes to the Senator from Arizona.

Mr. FANNIN. Ten minutes.

Mr. JAVITS. I have only 15 minutes. Make it 20 minutes on a side.

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

Mr. JAVITS. I yield myself 5 minutes. I hope very much that we will be able to curtail the time.

Mr. President, the issue which I raise by my amendment is concerned with the provision in this bill which I construe, and many others have construed, as essentially what is called a "right-to-work" provision—that is, it will exclude the possibility of any union negotiating for or obtaining, if it can, by negotiation, a so-called union shop. The proviso which I have added, which appears in classic labor relations law, and in the National Labor Relations Act, opens that opportunity. It opens that opportunity; and I believe, and other experts who have examined section (b) of section 222 of the House bill believe, that the provision contained in the bill cuts it out.

The provision I would amend, Mr. President, was inserted in the bill on the House floor. It was not a provision which came out of the House committee.

We have struggled with section 14(b) for a long time. As the ranking minority member of the Committee on Labor and Public Welfare, I have been in charge of tremendous debate on that subject, and we have come to no resolution thereon.

We now have a postal bill which involves enormously sensitive labor relations and, indeed, is a very serious pilot plan precedent for the relationship between the U.S. Government and its workers, who come in the order of some millions in the United States; and we have for the first time a so-called right-to-work provision.

I would not undertake in any way to affect the situation negatively or positively, either way—I would not move as I have, because I know how deeply labor's feelings and interests are involved in the substitute which is proposed—were I not firmly convinced that it would be a great mistake to single out the postal unions alone from all of American labor and prohibit them even from negotiating about the standard union shop clause.

Mr. President, we are told—and I think it may be true—that the labor unions

themselves are not making too much of a fuss about this. But labor unions, like other entities, have exigencies of the moment, and this moment is now; and the labor movement in the United States has its own dynamics and its own principle which it must serve. I think that people who have devoted their lives, as I have—and as so many others here have—to the consideration of the problems of American labor cannot yield our consciences and our judgment to either workers or employers.

There have been occasions on which I have most regretfully had to stand in that well and advocate things labor did not like, as, for example, asking people to come back to work, in the case of a national paralysis strike. I was very unhappy, and it was disagreeable to me and to Senator Wayne Morse, who may have lost a seat on that account. But this is the life we have chosen.

So I feel compelled in conscience to make this move as I see the situation, understand it, and know what it means as a precedent, and depreciate it. I feel, as I said last night—I have heard from many people on it since—that I had to vote against this substitute last night, that this provision inaugurates a course of action with the postal unions which I think is unfortunate. It prejudices the case, if you will, and I see no reason why that should be done in this particular measure.

Let us leave it just as this: The postal unions are unions and, as every other union, they ought to have the opportunity in collective bargaining to obtain the objectives of the trade union movement, which often include a union shop. It is for that reason that I am moving to insert the classic language which would preserve that right.

I yield myself 3 additional minutes, and I yield to the Senator from Minnesota.

Mr. MONDALE. Mr. President, I am pleased to support the amendment offered by the Senator from New York. I think that basic labor-management decency would require no less.

The present National Labor Relations Act is a compromise which says that the union shop is permitted, so that the membership of a particular union can join together in approval of a union shop as part of a security agreement to be incorporated in a collective bargaining agreement. However, where a State prohibits such union security agreements, the act's section 14(b) exception permits the States to deny the right of employees to negotiate for a union shop agreement.

As I understand the pending substitute amendment, which the Senator from New York wishes to amend, it would in effect say that no postal employees in any State could obtain a union shop agreement. Without adopting the present amendment, we are going to deny postal employees the right to strike; and in addition deny them the basic and widely accepted union shop structure which has been, I think, a key element in modern union organization and a key part of modern labor-management relations.

This really takes us clear back to the old antiunion days, when every reasonable step was made to try to inhibit and interfere with and paralyze decent labor-management relations and decent efforts to provide equality at the bargaining table.

Mr. JAVITS. Mr. President, I thank the Senator very much for his support.

I yield to the Senator from Arizona.

Mr. GOLDWATER. I want to ask a question of the Senator, who serves as ranking minority member of the Committee on Labor and Public Welfare, a position I once rather unhappily held.

As I understand the language of the House bill, it would not prevent bargaining; it would not break up the independent unions. If I correctly understand the language that the Senator is proposing, it would tend to, if not exactly, break up the independent unions—very many of them—and it could well result in one union—namely, the AFL–CIO—being the bargaining agent for all postal employees. Am I correct in that?

Mr. JAVITS. No, I do not think the Senator is correct, for this reason: I think the Senator is commingling two aspects of this bill. The Senate bill gives exclusive bargaining rights to national unions, and therefore the so-called local unions, except under rather unusual conditions, are excluded right away. Under my proposal, the House bill would prevail. It gives the bargaining rights both to national and local unions depending on what the NLRB decides. Then if, by bargaining, either one of those could achieve a union shop, it would be able to achieve it. It would not be barred.

So I do not think it runs afoul of the desire to preserve the opportunities of the local unions. On the contrary, it gives them an even better opportunity, as with the national union, by enabling them also to bargain for a union shop; and it does not interfere with what Senator Baker's substitute does for the local union which is to take them out of the prohibition against bargaining which is contained in the amendment.

Mr. GOLDWATER. Am I correct in assuming that the Senate version, or the version the Senator prefers, will have the National Labor Relations Board as the determining agent, as to whom the bargaining agent would be, and under the House bill it is left up to the committee—that is, either appointed for that purpose or the managers of the new postal service?

Mr. JAVITS. I understand, but under the Senate bill—I have had this bill analyzed—we merely recognize, for bargaining purposes only, national unions, whereas under the House bill it is possible for bargaining units to be local. That is one of the principal reasons why the Senator from Tennessee (Mr. BAKER) is moving his substitute.

Mr. GOLDWATER. That is the reason I asked. Am I correct, at least, that what the Senate bill will eventually do will be to wind up with the NLRB recognizing a national union, such as the AFL–CIO, because I understand agreement has been made with certain crafts to handle it, which will do away with a number of local postal unions which are not necessarily related but which operate as locals throughout the country.

Mr. JAVITS. "Do away with" are harsh words, because they may very well become locals, but it would change the bargaining pattern materially.

Mr. CURTIS. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. CURTIS. Is it not true that the language in the amendment offered by the Senator from Tennessee is really a restatement of the executive order first propounded by the late President Kennedy, later proclaimed by President Johnson, and finally by President Nixon?

Mr. JAVITS. I really could not give an answer to that to the Senator, because I do not have in hand the Executive order.

Mr. CURTIS. I think the Senator will find that is true and that, instead of the House bill changing established precedent, it preserves it. It preserves the same rights and privileges of the individual workers originally declared by President Kennedy and reaffirmed by Presidents Johnson and Nixon.

Mr. JAVITS. There is no question about that. The only question is whether we should now, in what I consider would be an invidious precedent, provide in this bill not only for the carrying out of that function which the Senator describes, quite properly, but also for a prohibition on any such entities seeking the union shop, which I think this bill does.

Mr. BAKER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. PROXMIRE). Twenty minutes remain to the Senator from Tennessee.

Mr. BAKER. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 2 minutes.

Mr. BAKER. Mr. President, in replying to the distinguished Senator from Nebraska's inquiry about the Executive order first propounded by the late President Kennedy, it is my information that President Kennedy did propound such an Executive order in 1962, and that that order was essentially the same order as was promulgated in 1969, Executive Order No. 11491, by President Nixon. The Executive order reads, in part, as follows

> Each employee of the executive branch of the Federal Government has the right freely and without fear of penalty or reprisal to join a labor organization or refrain from any such activity, and each employee shall be protected in the exercise of this right.

Mr. President, it is my view that the House version, in effect, protects that right first propounded by President Kennedy and then continued by President Nixon. The idea that we must protect the right of Federal employees to join or refrain from joining a union is embedded in the fabric of the House version. It is one of the aspects of it that commends it most highly to me.

It is important to realize that in this situation we do not have unanimity among the labor unions involved and the postal employees around the country. There are many labor organizations that do not approve of the Senate version of

the bill and who, in effect, will be legislated out of existence by the Senate version. My mail reflects that many labor organizations and employees of the postal service much prefer the greater freedom and greater reality of the House version.

Mr. McGEE. Mr. President, if I may respond on the point of the Executive order that has been mentioned, indeed, President Kennedy did issue such an order, and President Nixon has recently reaffirmed that order this past year.

In that terminology, and since this Executive order, one of the Presidents is no longer with us, and the other is now in the White House. The President in the White House right now negotiated with the postal unions. The President and the Postmaster General of this administration negotiated this agreement with the postal unions. This was subsequent to the Executive order.

The reason for the negotiation, as they explained it, was under the new attempt to meet the new postal system on-going, which was being crowded over more into the private sector in its example, and that in exchange for giving up the right to strike, which they did not want to allow in the public sector, and rightly so, in my judgment, they conceded this one as a balancing factor in collective bargaining. The Senate did not do that. The Postmaster General and the President did, in the collective agreement that was signed, in effect, in political blood. So that is the origin of the present position of the Senate bill on this particular question. We have taken our lead from the President and the Postmaster General, and the collective agreement that was presumably signed in good faith.

Mr. BAKER. I thank the Senator from Wyoming. He is entirely right in his statement as to that situation. However, I disagree with the Postmaster General and the President. I cited the Executive order only to make the point that this had been policy in Federal service for many years, dating back to the Executive order propounded by President Kennedy.

Mr. CURTIS. Let us get this clear. It is true there were some negotiations between the Postmaster General and some of the unions involved, but there has been no contract signed for a union shop; is that not correct?

Mr. BAKER. That is my understanding.

Mr. CURTIS. As a matter of fact, this new corporation cannot enter into a contract until it becomes——

Mr. BAKER. That is my understanding. There is no authority for that until such legislation is passed.

Mr. CURTIS. So when they talk about agreement, it would be an agreement based on legislative proposals, perhaps, but not any more than that.

Mr. COOPER. Mr. President, I have spoken so much in the past few weeks that I fear I should not say anything now. But, as I understand the situation, the choice is between the provisions of the present Executive order, which would not require any Government employee to belong to a union unless he so desires, and the union shop provision of the Taft-Hartley Act which requires that when a union is recognized as the bargaining unit every employee of the industry concerned must join the union.

I was a Member of the Senate in 1948, and I voted for the Taft-Hartley Act and the union shop. That measure also included section 14(b), an exemption for right-to-work States.

I have been against section 14(b), because I think that where workers have to bargain with owners and management of the industry or business, the uniform rule should prevail throughout the country.

I must say that I have a different view about Government employees. I will support the amendment of the Senator from Tennessee. Government employees have an organization standing between them and the executive branch, and that is Congress. Congress is their representative.

I may be too old fashioned, but I believe the loyalty of the employees of the Government must be first to their Government. I hold also that no citizen of the United States should be required to be a union member to be a Government employee.

I appreciate what unions have done for workers in industry, but I cannot vote for the same system for Government employees. I believe that Congress, while it may be slow at times in providing for them, will provide for our postal workers, in pay, working conditions, benefits and the like, so important to them.

Many postal employees have told me that they dislike the idea of a corporation and union because they feel that it would remove them from their close association with Congress.

But my chief opposition to compulsory unionism for postal employees is that the open shop system would ultimately, if not immediately, require citizens of the United States to become union members in order to be employees of their Government and country. No citizen should be required to be a member of any organization to become an employee of his own Government. If this system is started with postal employees, it will spread in time to every employee of the United States and of the States themselves. The first loyalty of any employee of the U.S. Government must be to the U.S. Government .

Mr. BAKER. Mr. President, I thank the Senator from Kentucky.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from Tennessee has 12 minutes remaining.

Mr. JAVITS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from New York has 8 minutes remaining.

Mr. JAVITS. Mr. President, I yield 1 minute to the Senator from New Jersey.

Mr. CASE. Mr. President, I thank the Senator from New York. I think that this has been a fascinating discussion. I find myself siding with the Senator from New York and opposing the Senator from Kentucky and many others with whom I often agree on these matters.

I think the distinction is this. These people will not be Government employees. When the reorganization corporation, this new entity, is created, they may not be exactly private employees. It is a sort of way station.

There is a great necessity to treat these employees as employees of a nongovernmental agency. I think, therefore, that the analogies and the procedures established under the Taft-Hartley Act for private employment are not pertinent.

I shall support the Senator from New York in his endeavor.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from New York is recognized for one minute.

Mr. JAVITS. Mr. President, the Senator from New Jersey is exactly right. Hinging on that is what the deal was with the postal unions in connection with the strike.

I would like to read this. It is very important. It appears under "labor relations." This is the memorandum of agreement signed April 16, 1970, with all these unions.

It reads as follows:

> Enable collective bargaining under a statutory framework establishing methods for conducting elections, providing one or more methods for resolving, negotiating impasses, and requiring collective bargaining over all aspects of wages, hours, and work conditions including grievance procedures, and in general all matters that are subject to collective bargaining in the private sector.

Mr. President, that is exactly what we are talking about. That is exactly what the Senator from New Jersey is talking about.

They are no longer really in the condition of Government employees once we pass this bill or under the Executive orders. They are under a new condition. And because they have been promised comparability with the industry of the private sector, they should be treated no differently than the workers in the private sector. That is not inconsistent with barring strikes against the Government or any other thing.

Mr. President, I am under an obligation to yield some time to the Senator from Arizona.

The PRESIDING OFFICER (Mr. PROXMIRE). Does the Senator yield to the Senator from Arizona?

Mr. JAVITS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from New York has 5 minutes remaining.

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. BAKER. Mr. President, I ask the Senator from Arizona if he would permit me to agree that I might yield to the Senator from Wyoming 3 minutes and then 1 minute to the Senator from Arizona. We will pool our time.

Mr. FANNIN. Mr. President, I will then take less than 10 minutes in that case. Does the Senator from Tennessee want to yield to me now?

Mr. BAKER. Mr. President, I yield my-

self 1 minute and 2 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. BAKER. Mr. President, in answer to the statement by the distinguished Senator from New Jersey and the elaboration by the distinguished Senator from New York, I must say that I am one of those who advocated postal reform law before there was any move in this direction by the administration.

I feel that we must have a private corporation. Unfortunately, neither the House nor the Senate bill will come close to it.

In our experience, the Tennessee Valley Authority is much closer to the industry sector employee than would be true in this section. By statute or by direction, it was requested that Federal employees be entitled to civil service payment and all rights and benefits. The Federal employees situation is entirely different, just as the Senator from Kentucky pointed out, than they were previously in private industry.

I yield 1 minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, one of the most remarkable precedents is about to be set with little debate and no comprehension of its consequences. It involves compulsory unionism. And, the reason for the inattention given this problem by the Congress is that it has been worked out by the Nixon administration. No one would contemplate that the Nixon administration would hail as a milestone an agreement for compulsory unionism. I raised the point, at the time of agreement, with the Postmaster General and received a garbled response. The Postmaster General states that the provisions of S. 3842 do not require compulsory unionism. Various letters and opinions have been received from the Post Office Department stating this. However, it is apparent to me that while one Government department is claiming the sanctity of 14(b) and right-to-work laws—namely, the Post Office Department, a coequal department—namely, Defense—looks with disregard upon this provision. I cited this inconsistency in correspondence with the Attorney General and asked for his opinion. He gave a very meaningful reply—he referred me to the General Counsel of the Post Office Department. To me this indicates that the Court well could find that the provisions require compulsory unionism, but the Attorney General wants to remain loyal to the agreement between the administration and the AFL–CIO.

I like unions. I hail the advancement of labor and the improvement in working conditions and benefits that never would have occurred had it not been for the labor movement. In a sense, I am a member of a union as a member of the bar association. As a lawyer in my home town I have had occasion to represent the labor unions. But, it is also a well-known fact that I helped write the right-to-work law of South Carolina and that I am a strong adherent to this position. I remain strong because of the merit of that position. The merit becomes more vivid and more meaningful than ever when Government employees are concerned. Where the right to strike is fundamental in the private labor movement, it cannot be countenanced for the Government employee. The profit motive is removed. The increased productivity cannot be bargained for increased benefits. Public office is a public trust and service to the public is beyond the hourly issue. It extends to the public generally and the cardinal feature is not that the business profit, but that the public interest be served.

When we set out compulsory unionism for 750,000 postal employees, its application could be considered a natural extension to the remaining 2,000,000 Government employees. Indeed, George Meany of the AFL–CIO told the House Post Office Committee that this unionism accomplishment for postal employees was only a first step. I do not look for sinister motives on the part of Mr. Meany. He is not a public employee. He does not look to the public for support. His success is measured by what he obtains for the union members. My success is measured by what I protect and preserve for the public, generally, including the union members.

I do not want to be bound by circumstances that the compulsory unionism feature could trigger. Before long, valid agreements, duly arrived at, could be presented to the office holder at the taking of office to be carried out. The office-holder would not be a party to the negotiations or to the agreement. Perhaps what has been agreed to is the very thing that the office holder disagreed to and used as a plank in his platform for election. I do not want to appear fanciful but it well could occur that when the office-holder was in law being administered the oath to support the Constitution, in fact he would be taking an oath to support the dictates of George Meany and the AFL–CIO.

This uncommon concentration of power in Government bespeaks danger to the Republic. All kinds of ramifications could result. I know the Congress is weary. The House passed last September a pay increase for postal employees of 11 percent. We passed one for 4½ percent in December. But the message from the White House was that this was inflationary and 4½ percent would be vetoed. At this point, trying to work out an acceptable solution, negotiations broke down into the wildcat strikes of postal employees over the country. And then the administration grabbed the ball to handle in its own way and negotiated not an 11 percent—not a 4½ percent—but a 16-percent increase. No longer was it inflationary. And, we have been told that we must accept this immediately or else there will be another strike.

I have tried to avoid the heat of passion from such threats. I have gone along and supported this increase and supported postal reform because of the very acute need for our Post Office Department. But, I have swallowed all I can take in the name of reform. I cannot destroy the fundamental of public service and set in motion a concentration of power beyond the purview of the public.

I am a cosponsor of the Fannin amendment and urge its passage. Without it as a part of postal reform, as much as I dislike opposing what I have sponsored, I will also be required to vote against postal reform.

Mr. BAKER. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. HANSEN. Mr. President, let me call the attention of the Senate to what George Meany said. It will be helpful because we are engaged in semantics as to whether postal employees are Federal employees or employees in the private sector.

I suspect that most of us might agree that George Meany's reactions and conclusions in this regard ought to be pretty persuasive.

He said last April when appearing before the House Post Office Committee that he finds the pending bill as only the beginning.

He added that if he can win—and this would mean a compulsory union shop in the Post Office Department with its 750,000 workers—he will seek to obtain the same kind of collective bargaining for all civilian workers in the Federal Government.

He goes on to point out that in addition to 3 million Federal employees, there are some 9 million additional employees who are employed by State, county, and city governments.

Let us make no mistake about this. If he is able to win the sort of agreement that the proponents of the Senate bill would have us retain in this bill, there can be no doubt at all that we can look forward, and before long, to the time when all 12 million employees of the Government, whether they be Federal, State, county, or local, are likely to find that they will have to join a union in order either to get a job or to keep a job.

Mr. President, I yield back the remainder of my time so that it might be given to the distinguished Senator from Arizona.

Mr. JAVITS. Mr. President, am I correct in understanding that I have 5 minutes remaining?

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator is correct.

Mr. JAVITS. Mr. President, I yield 4 minutes to the Senator from Arizona.

Mr. BAKER. Mr. President, I yield such time as I have remaining.

Mr. FANNIN. Mr. President, I express my appreciation to both the Senator from Tennessee and the Senator from New York.

Mr. President, if I am displeased with the possibility of this protection being removed, think of how the hundreds of thousands of postal workers must feel, particularly those 45,000 members of the National Alliance of Postal and Federal Employees and the 150,000 members of the National Postal Unions.

Mr. President, I think it is vitally important that the record be set straight. The rank-and-file postal workers have spoken loud and clear. They want their pay increases. They care nothing about the union shop—and in fact a majority of them have said pass a postal reform pay raise bill maintaining the executive order now in effect.

My friend and colleague, New Hampshire Senator NORRIS COTTON, said re-

cently that if Postmaster General Blount's idea of postal reform is adopted, "control of our postal service is bound to pass from the hands of Congress into the hands of the AFL–CIO."

Let us put this problem another way. Should we enact legislation here that would authorize the firing of loyal Federal employees who refuse to pay dues to a union which promotes illegal strikes?

President John F. Kennedy said "no."

His Labor Secretary Arthur Goldberg said "no."

The 1968 GOP party platform said "no."

And present Federal policy—Executive Order 11491—says "no"—it protects the freedom of all postal workers whether or not they pay money to a union.

Mr. President, I have here a petition by almost 1,000 postal workers from the city of New York, members of the National Postal Union. They say:

> We the undersigned hereby request that the provision of Executive Order 11491 giving postal employees the right to join or not to join a union be written into any postal reform legislation, thereby expediting just wage increases, fringe benefits, and better working conditions for all postal employees.

I would wonder how George Meany, president of the AFL–CIO, could negotiate for the National Postal Union or the Postal Alliance when they are not members of the AFL–CIO. What control does he have? What right does he have to negotiate for them if they disagree with him and they do not want him to negotiate for them? Why has he the right to do it? Why did the representatives of our Government take his word for their wishes? I think this is a terrible mistake. If this substitute is not approved tonight without the Javits amendment, I intend to call up my amendment No. 744 which repeats the Executive order and which provides the same protection for our postal workers that we provide for our other Federal employees.

Let us put the problem another way. Should we enact legislation here that would authorize the firing of loyal Federal employees who refuse to pay union dues to a union to which they do not want to belong and which they are forced to belong to and that joins in illegal strikes? President Kennedy said no. During his administration he issued and signed the Executive order which is covered by my amendment. Later President Johnson did the same thing. He also signed that Executive order. President Nixon has also done so.

Let us talk about the late President John F. Kennedy. Let us talk about what he said and did. His Secretary of Labor Arthur Goldberg, said no to compulsory unionism, thereby upholding Executive Order No. 14991.

Mr. President, at this point I wish to read from a Scripps-Howard newspaper editorial which was published in the Washington Daily News. The editorial bears heavily on the argument:

> Mr. Blount says this agreement if it goes thru Congress, would permit unions to negotiate for union shops. Union shops require all employees to join the union, whether they want to or not. This is common in private industry, but is it good public policy? In principle no.
>
> The question for Congress is whether this is too stiff a price to pay for reform of the postal system, desperate as that need is.

Mr. President, there are some who attempt to justify unionism of postal employees by contending that under the new proposal they would become employees of private industry and not Government employees. But Postmaster General Blount acknowledged in his testimony in the House of Representatives that postal employees will, of course, still be employees of the Government. Like other Government employees they will have no right to strike. This is a quotation from him:

> Postal employees will, of course, still be employees of the government. Like other government employees, they will have no right to strike.

There are Members of this body who would vote to turn over control of the postal workers and the postal union to the union bosses.

On this point syndicated columnist John Chamberlain said:

> With a union shop or an agency fee check-off enforced in Federalia and in the various state capitals, it would mean that only those citizens who believe in union compulsion could work for the government. It would be government of the people, by the unions, for the union bosses.

And the St. Louis Globe-Democrat said editorially:

> The thought of compelling anyone to join an organization against his will is thoroughly repugnant. In the case of government employees it is also objectionable on the grounds that it would tend to transfer an employee's primary loyalty from the government to the unions—a situation that could lead to chaos.

And the Jacksonville Times-Union said:

> To leave any way open whereby unions could force any and all government workers into their ranks would not only be a violation of the rights of the individuals concerned, it would give the union apparatus unchallenged power to coerce the government itself.

Even more cogent was the argument of the very liberal New York Times in an editorial titled "Backing the Boss in Politics," November 28, 1969. The editorial stated:

> Since 1947 the Taft-Hartley Act has imposed a similar ban on direct contributions by unions to the campaign funds of candidates for Federal office. This prohibition applies to all unions, not just those that represent Federal employes. It is true that the Taft-Hartley ban has not reduced union political activity. It is also true that postal unions and other Federal employe organizations have found many ways to circumvent the rules that are supposed to keep them out of direct support for favored candidates.
>
> But none of this makes less improper the situation in New York in which unions embracing a third of a million municipal employes provide major financial help to elect or defeat the man who has a decisive voice in determining how much money they will receive from the public purse in higher wages, larger pensions and the other benefits they regularly seek. Whether or not the law condones it, here is a real conflict of interest.

Mr. President, understand that article was from the New York Times.

As I stated the late President John F. Kennedy clearly recognized the danger involved in forcing unionism of Federal employees when he insisted that his 1962 Executive Order 10988, authorizing the unionization of Federal employees also protect the right not to join.

Mr. President, it should be understood that this would give them the right to support and join a union but it would also give them the right not to join a union. I will read the letter again:

> Employees of the federal government shall have, and shall be protected in the exercise of the right, freely and without fear of penalty or reprisal, to form, join, and assist any employee organization or to refrain from such activity.

That is the substance of amendment 744 that is printed and on the desks of Senators.

President Kennedy's Secretary of Labor, Arthur Goldberg, in explaining the order in a speech to members of the American Federation of Government Employees—AFL–CIO—said:

> "I know you will agree with me that the union shop and the closed shop are inappropriate to the Federal government. And because of this, there is a larger responsibility for enlightenment on the part of the government union. In your own organization you have to win acceptance by your own conduct, your own action, your own wisdom, your own responsibility and your own achievements. . . . So you have an opportunity to bring into your organization people who come in because they want to come in and who will participate, therefore, in the full activity of your organization.

Mr. BAKER. Mr. President, I reserve the remainder of my time.

Mr. JAVITS. Mr. President, I yield myself 1 minute.

Mr. President, I think the debate has shown exactly why I offered this amendment. We had a stalemate after the tremendous debate over section 14(b), which labor worked for like anything they ever did work for. These divisions are clear in this bill.

Therefore, if we are going to put the Post Office on a business basis and it must be remembered that is why postal employees went back to work—then all matters are subject to bargaining. We should restore the same conditions for those workers as we have for all workers. That is why I feel the amendment is necessary. It represents a longstanding policy of the United States. There is no reason why we should deviate from that policy in respect of the postal union.

Mr. BAKER. Mr. President, may I take about 30 seconds to say I feel it is important that we realize that we are on the brink of establishing a brandnew policy toward Federal employees. Section 14(b) of the Taft-Hartley Act has not in the past been directly applicable to Federal employees.

Mr. FANNIN. Mr. President, because of the tremendous importance of this particular amendment, because it is necessary to protect postal workers, I move to table the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, on that question I demand the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, faced

with the virtual paralysis of the Nation on the occasion of the recent postal strike, we recognized more clearly than ever the urgency of maintaining an adequate postal system.

Efforts to reorganize the Post Office Department have been stirring for some time. Virtually everyone who has studied the problem in depth assure us that the postal service has been teetering on the brink of catastrophe for years. A flood of mail voicing the complaints of postal patrons tends to confirm the assurance.

The basic thrust of the present bill—to remove the Post Office, as much as possible, from politics; to provide the Postmaster General a greater degree of control over the operation which he is entrusted with managing; to provide a means of financing the much-needed modernization of postal facilities—is sound and will, I believe, contribute to the development of a more effective postal service.

However, there has been much concern—and I believe rightly so—over the labor-management-relations section of the postal reform bill as reported from the Senate committee.

In his opening remarks, the distinguished chairman of the Senate Committee on Post Office and Civil Service assured us that the right-to-work issue is irrelevant to the Post Office, that this bill contains no mandatory unionism. This assurance is a cold comfort when we realize that the provisions of the bill quite clearly allow the negotiation of a labor agreement requiring union membership as a condition of employment. No one denies it. And while, if such a contract were concluded, the right-to-work laws of the several States would theoretically not be abrogated, the right to work, now enjoyed by postal workers throughout the country, most certainly would.

It seems to me a most curious proposition to permit a third party to demand money of a citizen who wishes to serve his Government. Because compulsory union agreements can be negotiated in private enterprise does not make such an arrangement the right or proper or fair way in which to proceed. In my opinion such an abridgement of individual freedom is wrong wherever it may occur—and inexcusable within the Federal Government.

The House of Representatives recognized the wisdom of insuring that postal employees retain the right to choose freely between participating in a labor organization or not. An amendment insuring the right to work for postal employees was passed in the House by an overwhelming margin. This is basically a civil rights question. In the final analysis, the right of management and unions to contract should not override the natural right of a person to make a free and uncoerced choice with respect to the earning of a livelihood for himself and his family.

There are many good reasons for a working man to belong to a union be he a postal employee or a steamfitter or what have you. But a union is strengthened and made more responsive to the needs of its membership if the union must attract members by demonstrating its effectiveness. The late Mr. Justice Brandeis, an ardent supporter of trade unionism, argued forcefully against compulsion:

> It is not true that the success of a labor union necessarily means a "perfect monopoly." The union in order to attain or preserve for its members industrial liberty, must be strong and stable. It need not include every member of the trade. Indeed, it is desirable for both the employer and the union that it should not. Absolute power leads to excesses and to weakness: neither our character nor our intelligence can long bear the strain of unrestricted power. The union attains success when it reaches the ideal condition, and the ideal condition for a union is to be strong and stable, and yet to have in the trade outside its own ranks an appreciable number of men who are non-unionists. Such a nucleus of unorganized labor will check oppression by the union." (Quoted by the late Justice Frankfurter in his concurring opinion in American Sash and Door Company 335 U.S. 538–559, which upheld the constitutionality of Arizona's right to work law.)

Another former Supreme Court Justice, Arthur Goldberg, was quoted at a 1962 meeting of the American Federation of Government Employees by the Washington Daily News, as follows:

> In your own organization you have to win acceptance not by an automatic device which brings a new employee into your organization, but by your own conduct, your own action, your own wisdom, your own responsibility, and your own achievements.

I feel that these are accurate assessments of what is lacking when union membership becomes compulsory and that, therefore, to support the guarantee of the right to work for postal employees is in the best interest not only of the general public and of individual postal employees, but also of the postal employees' organizations.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arizona to lay on the table the amendment of the Senator from New York (Mr. JAVITS). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that, if present and voting the Senator from Florida (Mr. HOLLAND) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 40, nays 50, as follows:

[No. 199 Leg.]

YEAS—40

Allen	Ellender	Miller
Allott	Ervin	Murphy
Anderson	Fannin	Pearson
Baker	Fulbright	Smith, Maine
Bellmon	Goldwater	Smith, Ill.
Bennett	Griffin	Sparkman
Byrd, Va.	Gurney	Spong
Cook	Hansen	Stennis
Cooper	Hollings	Talmadge
Cotton	Hruska	Thurmond
Curtis	Jordan, N.C.	Tower
Dole	Jordan, Idaho	Williams, Del.
Dominick	Long	
Eastland	McClellan	

NAYS—50

Aiken	Hart	Packwood
Bayh	Hartke	Pastore
Bible	Hatfield	Pell
Boggs	Hughes	Prouty
Brooke	Jackson	Proxmire
Burdick	Javits	Randolph
Byrd, W. Va.	Kennedy	Ribicoff
Cannon	Magnuson	Saxbe
Case	Mansfield	Schweiker
Church	Mathias	Scott
Cranston	McGee	Stevens
Eagleton	McGovern	Symington
Fong	McIntyre	Williams, N.J.
Goodell	Mondale	Yarborough
Gore	Montoya	Young, N. Dak.
Gravel	Moss	Young, Ohio
Harris	Muskie	

NOT VOTING—10

Dodd	Metcalf	Russell
Holland	Mundt	Tydings
Inouye	Nelson	
McCarthy	Percy	

So Mr. FANNIN's motion to lay on the table Mr. JAVITS' amendment was rejected.

The PRESIDING OFFICER. The question now recurs on agreeing to the amendment of the Senator from New York (Mr. JAVITS).

Mr. JAVITS. Mr. President, we are now voting substantively, yea or nay, on my amendment, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Illinois would vote "yea" and the Senator from South Dakota would vote "nay."

The result was announced—yeas 52, nays 38, as follows:

[No. 200 Leg.]

YEAS—52

Aiken	Hart	Packwood
Anderson	Hartke	Pastore
Bayh	Hatfield	Pell
Bible	Hughes	Prouty
Boggs	Jackson	Proxmire
Brooke	Javits	Randolph
Burdick	Kennedy	Ribicoff
Byrd, W. Va.	Magnuson	Saxbe
Cannon	Mansfield	Schweiker
Case	Mathias	Scott
Church	McCarthy	Stevens
Cranston	McGee	Symington
Eagleton	McGovern	Williams, N.J.
Fong	McIntyre	Yarborough
Goodell	Mondale	Young, N. Dak.
Gore	Montoya	Young, Ohio
Gravel	Moss	
Harris	Muskie	

NAYS—38

Allen	Ellender	Miller
Allott	Ervin	Murphy
Baker	Fannin	Pearson
Bellmon	Fulbright	Smith, Maine
Bennett	Goldwater	Smith, Ill.
Byrd, Va.	Griffin	Sparkman
Cook	Gurney	Spong
Cooper	Hansen	Stennis
Cotton	Hollings	Talmadge
Curtis	Hruska	Thurmond
Dole	Jordan, N.C.	Tower
Dominick	Jordan, Idaho	Williams, Del.
Eastland	McClellan	

NOT VOTING—10

Dodd	Metcalf	Russell
Holland	Mundt	Tydings
Inouye	Nelson	
Long	Percy	

So Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask that it be read.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. McGEE. Mr. President, will the Senator yield for 30 seconds?

Mr. JAVITS. I yield for 1 minute.

Mr. SYMINGTON. Mr. President, I ask that the Senator yield me 5 minutes.

Mr. JAVITS. Mr. President, I beg the Senator to bear with me 1 second. As I understand it, there are 30 minutes on each side on this amendment to the substitute.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGEE. Automatically 30 minutes on a side, unless the Senator wishes to lower it.

Mr. JAVITS. I wish always to oblige the Senator from Missouri, so that makes it 25. We could make it 20 minutes on a side. But I would like to deduct this 5 minutes. So let us yield to the Senator.

Mr. MAGNUSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. MAGNUSON. Why was the Senator from New York recognized when I was standing and seeking recognition?

The PRESIDING OFFICER. The Chair fully expected to recognize the Senator from Washington. The Chair thought the Senator from New York wanted to move to reconsider the vote by which his amendment had been agreed to.

Mr. JAVITS. I shall be glad to relinquish the floor if the Senator has an amendment to offer.

Mr. MAGNUSON. I do. The Chair recognized the Senator from New York because the Chair thought the Senator from New York wanted to move to reconsider the vote by which his amendment had been agreed to.

Mr. JAVITS. May I inquire of the Senator whether he intends to offer an amendment to the substitute?

Mr. MAGNUSON. Yes. I have been trying to do so for an hour. And I will be glad to yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Senator from Washington is recognized. The Senator from Washington yields 5 minutes to the Senator from Missouri.

The Senator from New York has withdrawn his amendment.

Mr. SYMINGTON. Mr. President, I would ask the able manager of this bill, the chairman of the committee, to comment on an observation made by one of the more prominent constituents of my State who says:

One problem has me worried. Though a daily, we have no out of town delivery routes, and use the mail. As you know, our south city limits is two miles from the Barry county line, and it is only six miles to both Stone and Christian counties.

The proposed second class postage increase is 1.2 cents per copy for all out of county mailings. We sell mail subscriptions in our four home counties for $6 per year.

As a result, the increase outside Lawrence county will be $4.60 per year, even though mail goes directly from our office into the hands of RFD carriers. This will create a most difficult problem for us, as you can see. I can not afford to absorb so much.

The problem of Monett will be even more difficult. The county line runs through the middle of the town, so the Times will get a harder jolt than the Advertiser.

My suggestion is to forget the in-county provision entirely, and substitute for it a mileage zone, say 10 to 15 miles, for the lowest bracket. That would be equitable. As it is, newspapers located in towns in the center of counties will have a considerable advantage. I think the post-office would break even in the long run as a result of such a change.

Now, Mr. President, I ask unanimous consent to have printed in the RECORD a rather involved letter which I received from the Executive Assistant Postmaster General as I presented this problem to him.

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

POST OFFICE DEPARTMENT,
Washington, D.C., June 22, 1970.

Hon. STUART SYMINGTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMINGTON: The Postmaster General asked me to reply to your letter of June 10, in behalf of Mr. Robert Lowry, Publisher of the Aurora Advertiser, Aurora, Missouri, concerning the proposed increase in second-class postage rates.

In fiscal year 1969, the Post Office had a deficit of about $1.0 billion. Currently, the Post Office is operating at a deficit of about $1.6 billion per year. Wage increases recently proposed to the Congress, if enacted, will raise that figure to about $2.5 billion. We believe this deficit should be met by increased postal rates rather than by revenues from general taxation.

Second-class mail is to the only one of our major services which fails to cover its demonstrably related costs. In fact, in 1969, before recent wage increases, regular-rate second-class mail covered only 51 percent of the costs demonstrably related to this service. Further, it is important to realize that the total of demonstrably related costs comprises only half of all postal costs. The remaining costs—institutional costs—are a pool of fixed costs which are the common responsibility of postal patrons. Thus, the mail services, in aggregate, must cover their demonstrably related costs by 200 percent if the Post Office is to break even.

Though the Administration's rate proposal calls for increasing the revenues from regular-rate second-class mail by almost 50 percent, such mailings would cover only two-thirds of their demonstrably related costs after the rate and salary increases.

Our added costs, predominantly for added wages, affect all publications in a fairly consistent manner, irrespective of weight, advertising content, or length of haul. Since it is the main purpose of our rate request to meet these higher costs, we have proposed a per-piece charge for regular-rate outside-the-county publications.

Postage rates for second-class mail, including in-county mail, are fixed by Congress. Elimination (or modification) of the current rate provisions for in-county mail is a matter Congress may wish to consider.

If there is any further information you desire, please do not hesitate to contact me.

Sincerely,

WALTER D. HARRIS,
Congressional Liaison Officer.

Mr. SYMINGTON. Now, Mr. President, I should like to ask the able chairman just what is the status of the administration's rate proposal based on the subject I discussed with him earlier this afternoon.

Mr. McGEE. The rate proposal was voted down earlier this evening by this body and, therefore, would not be a pending matter this year.

I hasten to add that if the postal reform bill passes the Congress and is signed by the President, under the pending legislation of the committee, the new Rate Commission would put it up to the next body to have some jurisdiction in that field, and the Senate is passing along words of counsel in the hope that they will exercise, through their judgment, a spirit of equity in the allowance. But nothing this year. We just voted down the administration's rate proposal.

Mr. SYMINGTON. I thank my able friend. As I understand it, I can say to my distinguished constituent that he has nothing to worry about, at least at this time. If there are further developments, he will have an opportunity to present his position to the chairman and the committee or possibly to a new rate commission under the pending legislation.

Mr. McGEE. The Senator can even say that single-handedly he struck that blow by his vote this evening.

Mr. SYMINGTON. I thank my friend from Wyoming for his kind observation.

May I thank the senior Senator from Washington (Mr. MAGNUSON) for his typically gracious courtesy in this particular instance. [Laughter.]

Mr. MAGNUSON. Mr. President, I call up my amendment now at the desk and ask that reading of the amendment be dispensed with because I can explain it in a few minutes.

The PRESIDING OFFICER (Mr. DOMINICK). Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The text of the amendment offered by the Senator from Washington is as follows:

§ 3109. Shipment of Unordered Merchandise

(a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise shipped by a charitable organization soliciting contributions, shipment of unordered merchandise or sending of communications prohibited by subsection (c) of this section constitutes an unfair method of competition and an unfair trade practice in violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(b) Any merchandise shipped in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender; and all such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

(c) No sender of any merchandise shipped in violation of subsection (a) of this section or within the exceptions contained therein, shall send any recipient of such merchandise a bill for such merchandise or any dunning communications.

(d) For the purposes of this section, "unordered merchandise" means merchandise shipped without the prior expressed request or consent of the recipient.

Mr. MAGNUSON. Mr. President, this is an amendment which will provide that unsolicited merchandise shipped to consumers through the mails be considered a gift to the recipient.

Fifteen States have now moved to bring under control the unconscionable practice of persons who ship unordered merchandise to consumers and then trick or bully them into paying for it.

The very first volume, amazingly, of Federal Trade Commission's published decisions in 1918, dealt with this very practice. Yet, nothing has been done about it up to date.

Throughout the years, however, the Federal Trade Commission has brought one case after another before it, because they had to bring in individual cases in order to try to stop the practice on a case-by-case basis, involving automobile accessories, books, reading cards, advertisements, novelty merchandise, photographs, vitamins, pharmaceuticals, and stamps.

The victims of the practices, though mainly consumers, have also been small businessmen who have invariably been sent unsolicited merchandise accompanied by deceitful high-pressure collection techniques, including promises of legal retribution and veiled threats to the credit reputation of the consumer.

As with many consumer frauds, the burden most often falls heaviest upon minors, the poor, the aged, those who are the most vulnerable to this predatory collection technique, in which invariably the reception in sending unordered merchandise lies in the ability of the seller to convince an unsuspecting consumer that he is obligated to purchase or return the merchandise. The consumer, even where he is not specifically told that he has an obligation to pay for the unsolicited merchandise, assumes that he must do so or return it, and rather than go to the trouble of shipping the items back and answering dunning letters, many consumers just go ahead and pay. Usually they are small amounts, but often of consequence to those consumers.

Mr. President, I am offering my amendment to prohibit that practice. It is based upon a succession of rules proposed by the Federal Trade Commission on which, apparently, no action has been taken to date.

I believe that now is the time to put this in the bill.

I do not believe there is a person within the sound of my voice that has not had this happen to them personally at one time or another.

Mr. PASTORE. I want to congratulate the Senator from Washington for what I think is an excellent amendment. This is what bothers me about it, and I would hope that my distinguished colleague from Washington would find it so, that we are working, as I understand it, on a substitute bill, and the committee is going to move to repeal the substitute and then work on the committee bill. If we put this on the substitute, in the process we may lose the effectiveness of the amendment. This is a good amendment.

I am asking the question, as I see the Senator from Hawaii (Mr. FONG) is in the Chamber, if we pass this amendment at this time, it will be affixed to the substitute bill, and I understand that the Senator from Hawaii and the manager of the bill wish to defeat the substitute bill and vote on the Senate bill——

Mr. FONG. That is true.

Mr. PASTORE. Then, how do we go about putting this on the real bill?

Mr. MAGNUSON. I have gathered a lot of parliamentary information here tonight, some official and some unofficial, and I am in a position to say that if this carries now on the substitute bill, and the substitute carries, I have got it in the bill just the same. If the substitute is defeated, we can present it, then, to the bill; whereas, if I presented it now and the substitute is carried, we would be foreclosed.

Mr. PASTORE. I would hope that the Senator from Washington would renew it in case the substitute is defeated.

Mr. MAGNUSON. I will be glad to do so.

This is something that people within the sound of my voice, here, up there in the gallery, and everywhere else, has had happen to them.

Mr. FULBRIGHT. I agree with the Senator. I will support the amendment. I think everyone here will.

Mr. PASTORE. Will the Senator from Washington add my name as a cosponsor to his amendment?

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have added as cosponsors of my amendment, the following Senators: Senator HOLLINGS, Senator FULBRIGHT, Senator YARBOROUGH, Senator PASTORE, Senator BELLMON, and Senator DOMINICK.

The PRESIDING OFFICER (Mr. DOMINICK). Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President, will the Senator from Tennessee accept the amendment?

Mr. BAKER. I am happy to accept it.

Mr. MAGNUSON. I thank the Senator, and if the amendment is defeated at this time, I shall offer it again.

The PRESIDING OFFICER (Mr. DOMINICK). The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

Mr. JAVITS. Mr. President, may we have order?

The PRESIDING OFFICER (Mr. DOMINICK). The Senate will be in order.

The question occurs on the amendment of the Senator from New York which has already been stated.

Mr. JAVITS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. DOMINICK). Without objection, it is so ordered; and the amendment will be printed in the RECORD.

The amendment ordered to be printed in the RECORD reads as follows:

Strike out chapter 12 of title 39 and insert in lieu thereof the following:

"CHAPTER 12.—RATES AND RATEMAKING

"Sec.
"1201. Authority.
"1202. Postal Rate Board.
"1203. Public service cost.
"1204. Rates and classes of mail.
"1205. Temporary changes in rates and classes.
"1206. Postal services.
"1207. Rate and service complaints.
"1208. Size and weight limits.
"1208A. Uniform rates for books, films, and other materials.
"1209. Limitations.
"1210. Special postal appropriation.
"1211. Mail matter for the blind.

"§ 1201. Authority.

"Except as otherwise provided, the Presidentially appointed Commissioners are authorized to establish reasonable and equitable classes of mail and reasonable and equitable rates of postage and fees for postal service in accordance with the provisions of this chapter.

"§ 1202. Postal Rate Board

"(a) There is established as an independent expert body within the Postal Service a Postal Rate Board composed of 5 members appointed by the President, by and with the advice and consent of the Senate, not more than 3 of whom may be adherents of the same political party and 1 of whom shall be designated as Chairman and shall serve in the position of Chairman at the pleasure of the President. The members shall be chosen only on the basis of their professional qualifications, shall be covered into the competitive service under title 5 without examination, and may be removed only in accordance with the procedures established under section 7521 of such title.

"(b) The members shall serve for terms of 6 years except that—

"(1) the terms of the members first taking office shall expire as designated by the President at the time of appointment, 1 at the end of 2 years, 2 at the end of 4 years, and 2 at the end of 6 years, following their appointment; and

"(2) any such member appointed to fill a vacancy occurring before the expiration of

the term for which his predecessor was appointed shall serve for the remainder of such term.

"(c) The members may obtain such facilities and supplies, and appoint and fix the compensation of such officers and employees, as may be necessary to permit the Board to carry out its functions. The officers and employees so appointed (1) shall be paid at rates of compensation and shall be entitled to programs offering employee benefits, established under chapter 2 of this title, and (2) shall be responsible solely to the members. The cost of the facilities and supplies, compensation, and employee benefits shall be paid out of general funds available for the operation of the Postal Service. The members shall consult with the Presidentially appointed Commissioners of the Commission from time to time to insure that appointments and expenses made and incurred by the Board are necessary and in the public interest.

"(d) The members shall promulgate rules and regulations and establish procedures, subject to chapters 5 and 7 of title 5, and take any other action they deem necessary and proper to carry out their functions and obligations to the Government of the United States and the people as prescribed under this chapter. Such rules, regulations, procedures, and actions shall not be subject to any change or supervision by the Commission.

"(e) The Chairman of the Board shall have the administrative responsibility for assigning the business of the Board to the other members and to the officers and employees of the Board. All final acts of the members shall be by a vote of an absolute majority thereof.

"§ 1203. Public service cost

"(a) Each year the Commission shall estimate—

"(1) the total costs including a reasonable reserve for contingencies and depreciation on capital assets that the Postal Service will incur during the next fiscal year; and

"(2) the total income and appropriations (other than amounts appropriated under subsection (b) of this section) to be received by or accrued to the Postal Service during the same fiscal year.

The Board shall then reduce its estimate of total costs determined under clause (1) of this subsection by an amount equal to the lesser of 10 percent of such costs or 10 percent of the sum appropriated to the Post Office Department by Act of Congress for its use in fiscal year 1971 (other than the sum so appropriated for capital improvements), which amount shall be considered the public service cost of operating the Postal Service.

"(b) There are authorized to be appropriated to the Postal Service each year the amount of the public service cost determined under subsection (a) of this section.

"§ 1204. Rates and classes of mail

"(a) Within 2 years after the effective date of this chapter, the presidentially appointed Commissioners shall establish a mail classification schedule in accordance with the provisions of this section.

"(b) The Board shall make a recommended decision on establishing or changing the schedule in accordance with the postal policy in section 101 of the Postal Reorganization and Salary Adjustment Act of 1970 and the following factors:

"(1) the establishment and maintenance of a fair and equitable classification system for all mail;

"(2) the relative value to the people of the kinds of mail matter entered into the postal system and the desirability and justification for special classifications and services of mail;

"(3) the importance of providing classifications with extremely high degrees of reliability and speed of delivery;

"(4) the importance of providing classifications which do not require an extremely high degree of reliability and speed of delivery;

"(5) the desirability of special classifications from the point of view of both the user and of the Postal Service; and

"(6) such other factors as the Board may deem appropriate.

"(c) The Postal Service shall maintain one or more classes of mail for the transmission of letters sealed against inspection. The rate for each such class shall be uniform throughout the United States, its territories, and possessions. One such class shall provide for the most expeditious handling and transportation afforded mail matter by the Postal Service. No letter of such a class of domestic origin sealed shall be opened except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which the letter can be delivered, or pursuant to the authorization of the addressee.

"(d) Following the establishment of a mail classification schedule under subsection (a) of this section, the Commission may from time to time request that the Board submit a recommended decision on changes in the mail classification schedule.

"(e) From time to time but not less than once every 2 years, the Commission shall request that the Board submit a recommended decision on changes in postal rates and fees if the estimated income and appropriations, determined under clause (2) of section 1203(a) of this title, are significantly different from the estimated costs reduced by the amount of the public service cost, as determined under such section or if the Commission determines that such change would be in the public interest and in accordance with the policy objectives of this title. The Commission shall notify the Board of the amount of the difference, if any, and request that the Board prepare and recommend a decision to it on such changes in rates of postage, and such changes in rates and fees for postal services, as it may determine to be required to yield estimated income and appropriations as determined under such clause which will equal as nearly as possible the total estimated costs as reduced. To the extent that Congress may fail to make available to the Postal Service all of the funds authorized to be appropriated under this title, the Board shall be requested to prepare and recommend a decision on such changes in rates of postage and rates and fees for postal services as it may determine to be required to yield estimated income which will, as nearly as possible, equal the deficiency. The Commission may submit suggestions for rate adjustments which it deems suitable.

"(f) The Board shall promptly consider a request to establish a mail classification schedule or a request made under subsection (d) or (e), except that the Board shall not recommend a decision until the opportunity for a hearing on the record pursuant to sections 556 and 557 of title 5 has been accorded to the Commission, users of the mails, and an officer of the Board who shall be required to represent the interests of the general public. In order to conduct their proceedings with utmost expedition consistent with procedural fairness to the parties, the Board may (without limitation) adopt rules which provide for—

"(1) the advance submission of written direct testimony;

"(2) the conduct of prehearing conferences to define issues, and for other purposes to insure orderly and expeditious proceedings;

"(3) discovery both from the Postal Service and the parties to the proceedings;

"(4) limitation of testimony; and

"(5) the conduct of the entire proceedings off the record with the consent of the parties.

"(g) The Board shall recommend a decision to the Commission on changes in rates of postage and fees for postal services to provide sufficient revenue so that total estimated income and appropriations will equal as nearly as possible estimated total costs. The Board shall make a recommended decision for changes in rates or fees in each class of mail or type of service, other than those for which appropriations are provided in section 1210 of this title, in accordance with the postal policy of section 101 of the Postal Reorganization and Salary Adjustment Act of 1970 and the following factors:

"(1) the establishment and maintenance of a fair and equitable schedule;

"(2) the value of the mail service actually provided each class or type of mail service to both the sender and the recipient, including but not limited to the collection, mode of transportation, and priority of delivery;

"(3) operating costs, the amount of overhead, and other institutional costs of the Postal Service properly assignable to each class of mail or type of mail service;

"(4) the effect of rate increases upon the general public, business mail users, and enterprises in the private sector of the economy engaged in the delivery of mail matter other than letters;

"(5) the available alternative means of sending and receiving letters and other mail matter at reasonable costs;

"(6) the degree of preparation of mail for delivery into the postal system performed by the mailer and its effect upon reducing costs to the Postal Service;

"(7) simplicity of structure for the entire schedule and simple, identifiable relationships between the rates or fees charged the various classes of mail for postal services; and

"(8) such other factors as the Board deems appropriate.

"(h) (1) The Board shall transmit its recommended decision in a rate, fee, or classification matter to the presidentially appointed Commissioners, who may approve, modify, or reject the recommendation in accordance with the provisions of this section. The recommended decision shall include a statement specifically responsive to the criteria established under subsection (b) or (g) of this section as appropriate.

"(2) If the presidentially appointed Commissioners reject the recommended decision of the Board, the Commission may resubmit its request to the Board for reconsideration. Upon resubmission the request shall be considered, and a further recommended decision of the Board shall be acted upon and subject to review in accordance with the provisions of this subsection relating to original requests for recommended decisions of the Board, except that, with the unanimous written concurrence of all of the presidentially appointed Commissioners then holding office, those Commissioners may modify any such further recommended decision of the Board if those Commissioners expressly find that (A) such modification is in accord with the record and the policies of this chapter, and (B) the rates recommended by the Board are not adequate to provide sufficient total revenues as described under subsection (g) of this section.

"(3) The presidentially appointed Commissioners may, under protest, allow a recommendation of the Board to take effect and (A) seek judicial review thereof under paragraph (5) of this subsection, or (B) return the recommended decision to the Board for reconsideration and a further recommended decision, which shall be acted upon subject to review in accordance with this subsection relating to original requests for recommended decisions of the Board.

"(4) The decision of the presidentially

appointed Commissioners to approve, modify, or reject a recommended decision of the Board shall be in writing, and shall include an estimate of anticipated revenue and a statement of explanation and justification. The decision, the record of the Board's hearings, and the Board's recommended decision shall be made generally available at the time the decision is issued and shall be printed and made available for sale by the Public Printer within 10 days following the day the decision is issued.

"(5) A decision of the presidentially appointed Commissioners to approve or modify the recommended decision may be appealed within 15 days of its publication by an aggrieved party who appeared in the proceedings pursuant to subsection (b) of this section to the United States Court of Appeals for the District of Columbia Circuit. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Board and the presidentially appointed Commissioners. The court may affirm the decision or order that the entire matter be returned to the Board for further consideration, but the court may not modify the decision. The court shall make the matter a preferred cause and shall expedite judgment in every way. The court may not suspend the effectiveness of the changes, or otherwise prevent them from taking effect until final disposition of the suit by the court. No court shall have jurisdiction to review a decision made by the Board or Commission under this chapter except as provided in this subsection.

"(6) The Commission shall determine the date which the new rates, fees, the mail classification schedule, and changes in such schedule shall become effective.

"(i) If the rates of postage for the classes of mail or kinds of mailers under former sections 4358, 4359, 4421, 4422, 4452, or 4554 of this title, as such rates existed on the effective date of this section, are on the effective date of the first rate decision by the presidentially appointed Commissioners less than the rates established by their decision, they shall, notwithstanding the provisions of this chapter, adopt a separate schedule of rates for each class of mail or mailers effective each time rates are established or changed under this chapter, with annual increases as nearly equal as practicable, so that—

"(1) the rates for mail under former sections 4358, 4452(b), and 4554 (b) and (c) shall be equal, beginning on the first day of the tenth year following such effective date, to the regular rates that would have been in effect for such mail if this subsection had not been enacted; and

"(2) the rates for mail under section 4359, 4421, 4422, 4452(a), and 4554(a) shall be equal, beginning on the first day of the fifth year following such effective date, to the regular rates that would have been in effect for such mail if this subsection had not been enacted.

"§ 1205. Temporary changes in rates and classes

"(a) If the Board does not transmit to the presidentially appointed commissioners within 90 days after the Commission has submitted or within 30 days after the Commission has resubmitted to the Board a request for a recommended decision on a change in rates of postage or in rates or fees for postal services, or on a change in the mail classification schedule (after such schedule is established under section 1204 of this title, the Commission, upon 10 days' notice in the Federal Register, may place into effect temporarily changes in rates of postage, in rates or fees for postal service, or in the mail classification schedule it considers appropriate to carry out the provisions of this title. Any temporary change shall be effective for a period ending not later than 30 days after the Commission has transmitted its recommended decision to the Board.

"(b) If, pursuant to section 1204(h) of this title, a court orders a matter returned to the Board for further consideration the Commission, with the consent of the Board, may place into effect temporary changes in rates of postage or in rates and fees for postal services or in the mail classification schedule.

"§ 1206. Postal services

"(a) When the Commission determines that there should be a change in the nature of postal services which will have a general effect of reducing service on a nationwide or substantially nationwide basis, it shall submit a proposal for such changes to the Board for its decision.

"(b) The Board shall not make or issue its decision on any proposal until an opportunity for hearing on the record under sections 556 and 557 of title 5 has been accorded to the Commission, users of the mail, and an officer of the Board who shall be required to represent the interests of the general public. The decision shall be in writing and shall include a certification by each member of the Board agreeing with the decision that in his judgment the decision conforms to the policy established under section 101 of the Postal Reorganization and Salary Adjustment Act of 1970.

"(c) The decision of the Board shall be binding on the Postal Service for a period of 2 years.

"(d) Whenever the Commission finds that an emergency exists which does not permit sufficient time for the procedures prescribed in subsections (a) and (b) of this section, it may contemporaneously with or subsequent to submitting the proposed change to the Board, put such change in effect. A change adopted under this subsection shall conform to such postal policy and shall remain in effect until proceedings under subsections (a) and (b) of this section have been completed or for such shorter period as the Commission may fix.

"(e) Interested parties who believe the Postal Service is not conforming to the policies of this title may file a complaint with the Board. If the Board determines that the complaint is valid, it shall recommend that the Commission make an appropriate change.

"§ 1207. Rate and service complaints

"Interested parties who believe the Postal Service is charging rates which do not conform to the policies set out in this title or who believe that they are not receiving postal service in accordance with the policies of this title may lodge a complaint with the Board in such form and in such manner as it may prescribe. The Board may in its discretion hold hearings on such complaint. If the Board, in a matter covered by section 1204 of this title, determines the complaint to be justified it shall, after proceedings in conformity with section 1204(f) of this title, issue a recommended decision which shall be acted upon and subject to review in accordance with the provisions of section 1204(h) of this title relating to original requests for recommended decisions of the Board. If a matter not covered by section 1204 of this title is involved, and the Board after hearing finds the complaint to be justified, it shall render a public report thereon to the Commission which shall take such action as it deems appropriate.

"§ 1208. Size and weight limits

"(a) Except as provided in subsection (b) of this section—

"(1) the maximum weight of mail other than letter mail is 40 pounds; and

"(2) the maximum size is—

"(A) 78 inches in girth and length combined before July 1, 1971; and

"(B) 84 inches in girth and length combined on or after July 1, 1971.

"(b) The maximum size on mail, other than letter mail, is 100 inches in girth and length combined, and the maximum weight is 70 pounds if the mail—

"(1) is mailed at, or addressed for delivery at, other than first-class post offices or on rural or star routes, as such offices and routes existed on the day prior to the effective date of this section, as determined by the Board of Governors;

"(2) contains baby fowl, live plants, trees, shrubs, or agricultural commodities but not the manufactured products of those commodities;

"(3) was mailed under section 4554 of this title, as such section existed on the day prior to the effective date of this section;

"(4) is addressed to or mailed at any Armed Forces post office outside the 50 States; and

"(5) is addressed to or mailed in the Commonwealth of Puerto Rico, the States of Alaska and Hawaii, or a possession of the United States including the Canal Zone and the Trust Territory of the Pacific Islands.

"(c) The Commission may establish size and weight limitations for letter mail in the same manner as prescribed for changes in classification under section 1204 of this title.

"§ 1208A. Uniform rates for books, films, and other materials

Notwithstanding any other provision of this title, the rates of postage on those items enumerated in former section 4554 of this title shall be uniform for parcels of the same weight, and shall not be based on zones or otherwise vary with the destination of the parcel.

"§ 1209. Limitations

"No provision of this chapter shall be construed to give authority to the Presidentially appointed Commissioners to make any change in any provision of section 1208 or 1211 or chapter 6 of this title, or of the Federal Voting Assistance Act of 1955.

"§ 1210. Special postal appropriation

"There are authorized to be appropriated to the Postal Service each year a sum for each year equal to the difference between the revenues the Postal Service would have received if sections 652, 668, 669, 1204(i), 1209, and 1211 of this title had not been enacted and the estimated revenues to be received on mail carried under such sections.

"§ 1211 Matter for blind and other handicapped persons

"(a) The matter described in subsection (b) of this section (other than matter mailed under subsection (c) of this section may be mailed free of postage, if—

"(1) the matter is for the use of the blind or other persons who cannot use or read conventionally printed material because of a physical impairment who are certified by competent authority as unable to read normal reading material in accordance with the provisions of the first section of the Act of July 30, 1966 (Public Law 89–522; 80 Stat. 330);

"(2) no charge, or rental, subscription, or other fee, is required for such matter or a charge, or rental, subscription, or other fee is required for such matter not in excess of the cost thereof;

"(3) the matter may be opened by the Commission for inspection; and

"(4) the matter contains no advertising.

"(b) The free mailing privilege provided by subsection (a) of this section is extended to—

"(1) reading matter and musical scores;

"(2) sound reproductions;

"(3) paper, records, tapes, and other material for the production of reading matter, musical scores, or sound reproductions;

"(4) reproducers or parts thereof, for sound reproductions; and

"(5) braille writers, typewriters, educational or other materials or devices, or parts thereof, used for writing by, or specifically designed or adapted for use of, a blind person or a person having a physical impairment as described in subsection (a)(1) of this section.

"(c) Unsealed letters sent by a blind person or a person having a physical impairment, as described in section 1211(a)(1) of this title, in raised characters or sightsaving type, or in the form of sound recordings, may be mailed free of postage.

"(d) All matter relating to blind or other handicapped persons mailed under subsection (a), (b), or (c) of this section, shall bear the words 'Free Matter for the Blind or Handicapped', or words to that effect specified by the Commission, in the upper right-hand corner of the address area.

Mr. JAVITS. Mr. President, if Senators will give me their attention again, I will try to save time.

What I am doing is substituting in the substitute bill the Senate ratemaking plan for the House ratemaking plan.

I repeat that. I am trying to insert in the substitute offered by the Senator from Tennessee the Senate ratemaking plan rather than the House ratemaking plan.

The fundamental reason—which any Senator can read in the committee report, and I might say incidentally that the committee did a splendid job on this—appears on pages 10 to 17.

Mr. President, what this does is to establish the businesslike quality of the postal service. The other body has chosen to utilize various business procedures. But in the final analysis, it has left the rates subject to veto by Congress.

It is like logrolling in the old days of the tariff. That is what we have involved in the postal bill. We have all kinds of things going on with respect to ratemaking.

Personally, I believe that one of the big strengths of the Senate bill is in the ratemaking provision. For people like me, there is a good deal in each of the bills that is very commendable. And in the Senate bill the ratemaking provisions are most commendable.

The essential element, as I have explained, is that we do not have a congressional veto. It becomes a businesslike proposition in the Senate bill.

The Senate bill does provide for a 10-year phaseout of special concessions with regard to postal rates. And in addition it now has in it my amendment and the Mansfield amendment which continues particular benefits which go to books and small newspapers.

That is the explanation. It is generic in its concept.

I hope very much that the Senate, and indeed the sponsor of the substitute, will look upon it favorably.

If the substitute is agreed to, then the ratemaking provision would be in conference. The House provision would be before the conference, as would be the measure offered by the Senator from Tennessee.

Mr. BAKER. Mr. President, I feel that the amendment offered by the distinguished senior Senator from New York has merit. As sponsor of the substitute, I am willing to accept it.

Mr. JAVITS. Mr. President, I thank the Senator from Tennessee.

Mr. BAKER. Mr. President, I think the situation is such that it necessarily creates greater autonomy in the plan for postal reformation. I think it adds materially to our prospects for accomplishing that.

I accept the amendment.

The PRESIDING OFFICER (Mr. COTTON). Do the Senators yield back their time?

Mr. DOMINICK. Mr. President, may I ask if this has anything to do with the rates which are established for air service which, as I understand it, has one portion under the CAB and another portion is reserved to another body.

Frankly, I do not know the answer.

Mr. JAVITS. Mr. President, there is a section in the committee report on that. However, if the Senator from Wyoming (Mr. MCGEE), who is an encyclopedia of knowledge on this subject, would answer the question, I would greatly appreciate it.

Mr. MCGEE. What was the question of the Senator?

Mr. JAVITS. The Senator asks concerning the situation with respect to jurisdiction over air carriers and carriers of mail. He says that he thinks there is a different provision in the House bill than in our bill.

Mr. MCGEE. Mr. President, that is not germane to the Senator's ratemaking section. That is in the transportation section.

Mr. DOMINICK. Mr. President, that is all I need to know. I thank the Senator.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. BAKER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. COTTON). The question is on agreeing to the amendment of the Senator from New York to the amendment of the Senator from Tennessee.

The amendment was agreed to.

Mr. MCGEE. Mr. President, what is the parliamentary situation in respect to the substitute of the Senator from Tennessee?

The PRESIDING OFFICER (Mr. COTTON). The question now recurs on the amendment of the Senator from Tennessee.

Mr. MCGEE. What is the time situation?

The PRESIDING OFFICER. All time has expired. On this question the yeas and nays have been ordered, and the clerk will call the roll.

Mr. MCGEE. Mr. President, I move to table the pending amendment in the light of the debate here this evening that the Senate has had on the various attempted amendments.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Mr. President, if the motion to table fails, would the amendment then be open to further amendment?

The PRESIDING OFFICER (Mr. COTTON). It would be open to further amendment.

All time having expired, the question is on the motion of the Senator from Wyoming to table the substitute amendment of the Senator from Tennessee as amended.

Mr. BAKER. Mr. President, the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. COTTON). The clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 47, nays 43, as follows:

[No. 201 Leg.]

YEAS—47

Anderson	Harris	Moss
Bayh	Hart	Muskie
Bible	Hartke	Pastore
Boggs	Hollings	Pell
Burdick	Hughes	Proxmire
Byrd, Va.	Jackson	Randolph
Byrd, W. Va.	Jordan, N.C.	Ribicoff
Cannon	Kennedy	Scott
Church	Magnuson	Spong
Cranston	Mansfield	Stevens
Eagleton	McCarthy	Symington
Ellender	McGee	Talmadge
Ervin	McGovern	Williams, N.J.
Fong	McIntyre	Yarborough
Fulbright	Mondale	Young, Ohio
Gore	Montoya	

NAYS—43

Aiken	Fannin	Packwood
Allen	Goldwater	Pearson
Allott	Goodell	Prouty
Baker	Gravel	Saxbe
Bellmon	Griffin	Schweiker
Bennett	Gurney	Smith, Maine
Brooke	Hansen	Smith, Ill.
Case	Hatfield	Sparkman
Cook	Hruska	Stennis
Cooper	Javits	Thurmond
Cotton	Jordan, Idaho	Tower
Curtis	Mathias	Williams, Del.
Dole	McClellan	Young, N. Dak.
Dominick	Miller	
Eastland	Murphy	

NOT VOTING—10

Dodd	Metcalf	Russell
Holland	Mundt	Tydings
Inouye	Nelson	
Long	Percy	

So, Mr. MCGEE's motion to lay on the table Mr. BAKER's substitute amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question now recurs on the committee amendment as amended.

Mr. DOMINICK. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Colorado will be stated.

The bill clerk read the amendment, as follows:

On page 246, line 26, strike out "once".

On page 247, beginning with the period on line 2, strike out everything through line 6, and insert in lieu thereof the following: ", without advertising."

Mr. DOMINICK. Mr. President, if I may have the attention of Senators——

The PRESIDING OFFICER. Does the Senator request that the amendments be considered en bloc?

Mr. DOMINICK. Yes.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. DOMINICK. Mr. President, my explanation will not take long. I shall take only about 5 minutes. I have sent a copy of the amendment to the Senator from Wyoming (Mr. McGEE).

On page 246 of the proposed bill is the section dealing with star contracts, and the provision, as it is now written, provides that there cannot be more than one term of renewal under a star contract without going back to competitive bidding.

In my State—and I would presume this is true in many others—a star route requires a great deal of investment in supplies, equipment, personnel, and so forth. Prior to this time there have been no provisions for competitive bidding. I have provided that renewal can be had by negotiation at the end of each 4- or 6-year term, on the assumption that more than 4 additional years will be needed in order to repay the investment.

If I may have the attention of my friend from Wyoming, in the event he believes this provision is too wide open—and it is possible he may—I am willing to provide that every 8 years it will be subject to negotiation, instead of just striking it out entirely; but I think we should have more than a 4-year term, which is why I have brought this amendment up.

Mr. McGEE. Mr. President, the Senator from Wyoming will respond, after conference with the ranking minority member of the committee, that in view of the nature of the language, we can accept it without doing any violence to the intent. It is a refinement in the intent of the legislation, and we are willing to accept it.

Mr. DOMINICK. I thank the Senator from Wyoming.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Colorado.

Does the Senator yield back his time?

Mr. DOMINICK. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Wyoming yield back his time?

Mr. McGEE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

PORNOGRAPHIC AND OBSCENE MAIL ADVERTISEMENTS MUST BE HALTED

Mr. HATFIELD. Mr. President, last evening, I was pleased to join as a cosponsor of an amendment to the postal reform bill designed to halt the mailing of obscene mail advertisements into our homes.

The Senator from Arizona adopted an approach which I believe is within constitutional limits and will protect those many people who are appalled at the smut entering their homes in an increasing amount.

Mr. President, the amendment allows people to place their names and the names of their children on a list kept by the Post Office Department. A smut peddler who sends offensive material to someone on the list could be subjected to civil and criminal sanctions.

As Chief Justice Burger stated in a recent unanimous Supreme Court decision:

> We therefore categorically reject the argument that a vendor has a right under the Constitution or otherwise to send unwanted material into the home of another.

I agree heartily with the Chief Justice. I have four young children, and I certainly will put my name and those of my family on file with the Post Office. Many Oregonians will do the same.

It should be noted that the freedom of speech and the press is not abridged. Those who wish to continue to receive these ads may do so. Those of us, however, who are disgusted and appalled by these ads are protected and our children are protected.

I certainly was pleased that the Senate addressed itself in such a direct manner to this problem. It will renew faith in my State, and around the country, that these obscene and pornographic advertising solicitations can be stopped and will be stopped.

Mr. President, at this point, I ask unanimous consent that my recent statement on pornography appear in the RECORD, followed by Postmaster General Blount's statement in March 1970, and concluding with the text of the amendment we passed last evening.

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

STATEMENT BY SENATOR MARK O. HATFIELD ON PORNOGRAPHY

Last year the Post Office Department received over 200,000 complaints regarding unsolicited obscene commercial material which had been sent through the mails. It is estimated that there are some 20 million pieces of smut mailed annually within the United States. Dealers in pornography are spured by a desire for huge profits. These peddlers are aware that these profits increase in direct proportion to the degree of prurient interest appeals that can be injected into their material. The operation of one dealer alone has resulted in 100,000 complaints in the last 4 years. Some persons have received as many as 30 unsolicited sordid mailings. The mailers respect no bounds of discrimination when sending material—no one is exempt. At present, the only tool the Post Office has to shield addressees from unsolicited and unwanted advertisements is the willing compliance of the dealers to remove names from their mailing lists. If the companies choose to ignore the directive requesting removal of a name, this becomes an ineffective tool.

In the name of increasing social acceptance and relevance, movies, books, plays and magazines are also becoming increasingly lewd, revealing, and objectionable. It would appear that the problem of dealing with the different media should be dealt with through the exercise of Federal power; but coequally, attention must be given to the important role of State and local government.

The main problem has always been—and continues to be—regardless of one's own feelings, a definition of pornography not in conflict with constitutional freedom guarantees. A law hastily established and enacted could be overturned by the courts and leave us facing the same problems over and over. Although there has been legislation offered to Congress that has much merit, I do not feel that any introduced at this time truly solves this complex problem facing our society today.

To help combat the situation, a Commission on Pornography and Obscenity has been authorized by Congress. The Commission, after a thorough study, is to try to untangle the current snarl of vague and conflicting laws covering the sale of smutty books, exhibition of erotic movies, and distribution of other sex-angled items. The Commission will also study the effects of obscenity and pornography on the public, particularly minors, and their relationship to crime and other antisocial behavior. The Commission, after study and evaluation, will recommend model national and state laws to Congress.

Because I feel very strongly about protecting the innocent citizens who are repulsed by much of the material surrounding us today—and who find the material obscene in every aspect—I shall follow the progress of the Commission closely and study carefully all recommendations and suggestions. As a Member of Congress, as a citizen, and as a parent of four children I am extremely concerned and anxious to promote legislation that defends the rights of all citieznsm—legislation that will outline strong decisive guidelines and stand up in any court at any time.

POST OFFICE PRESS RELEASE OF MARCH 12, 1970

The Administration's campaign to curb the flow of mail order pornography is beginning to show promising results, Postmaster General Winton M. Blount announced today.

"Working closely with the Justice Department, Chief Postal Inspector William J. Cotter and his men have scored significant successes against a cadre of the nation's larger distributors whose mailings of sexually-oriented materials have prompted about 90 percent of all public complaints. Convictions have been won against four of these dealers and Federal prosecution is underway against the remainder," Mr. Blount said.

In all, during the last six months of 1969, there have been 29 Federal indictments—almost double the 15 indictments obtained during the same period in 1968. Sixteen additional cases have been formally presented to United States Attorneys for possible prosecution.

Mr. Blount had special praise for the vigorous support of Attorney General John N. Mitchell and the Justice Department in instituting criminal action against smut peddlers. He noted that the average lapse of time between presentation of evidence to U.S. Attorneys and the commencement of prosecutive action had been reduced to less than one-third the time formerly required—from about 12 weeks at the beginning of 1969 to less than four weeks during the last six months of the year.

The Postmaster General also pointed to signs of a less permissive attitude by the courts as reason to believe "the tide at last is turning against the nation's smut dealers." He cited a number of recent cases in which the Supreme Court has refused to disturb lower court convictions as encouraging signs that as future cases move through the courts, convictions will ensue and will be upheld.

"Some obscenity dealers obviously are beginning to get the message that this Administration means business," Mr. Blount said. "For example, a California dealer recently decided it would be wise to fold up his

mail order operations. Following his conviction, he agreed to the closure of his post office boxes and surrendered huge volumes of advertising materials and mailing lists. Other dealers, facing similar charges, are indicating they may follow suit."

As an example of the Government's stepped-up activity against obscenity dealers, Mr. Blount said re-indictments are being brought against mail order dealers who fail to curtail their mailings even after their initial indictment and arrest.

The Postmaster General noted that a large nationwide dealer operating out of Philadelphia, Pa., continued his mail order activities while awaiting trial. When a new indictment was returned on February 19, 1970, a search and seizure warrant was obtained from the U.S. District Court and served on the establishment. Thousands of mailing circulars, addressograph plates and other instruments were seized.

While the Government is cracking down on domestic smut peddlers, Mr. Blount said the foreign obscenity dealer is not escaping the attention of the Post Office Department. During 1969, about 250 Foreign Unlawful Orders were obtained against overseas-based pornography mailers, an increase of nearly 200 over the previous year. These orders forbid delivery of mail addressed to the foreign dealer or the payment of any money order addressed to him or his representative. All affected mail is returned to the sender stamped "Unlawful."

In making today's announcement, Mr. Blount again reminded mail patrons they can take steps to curb the flow of offensive sex-oriented advertisements into their homes under the provisions of the Pandering Advertisements Act that became effective in April 1968. This law provides that a person who receives through the mail a pandering advertisement for "erotically arousing or sexually provocative" material may obtain an order from the Post Office directing the mailer to stop sending him further materials.

Approximately 350,000 Prohibitory Orders have been issued against mailers at the request of postal patrons since the law went into effect. Leaflets containing the necessary forms for initiating such orders are available to the public at all local post offices.

AMENDMENT

On page 285, after line 7, insert a new section as follows:

"INVASION OF PRIVACY BY MAILING OF SEXUALLY ORIENTED ADVERTISEMENTS

"SEC. 14. (a) The Congress finds—

"(1) that the United States mails are being used for the indiscriminate dissemination of advertising matters so designed and so presented as to exploit sexual sensationalism for commercial gain;

"(2) that such matter is profoundly shocking and offensive to many persons who receive it, unsolicited, through the mails;

"(3) that such use of the mails constitutes a serious threat to the dignity and sanctity of the American home and subjects many persons to an unconscionable and unwarranted intrusion upon their fundamental personal right to privacy;

"(4) that such use of the mail reduces the ability of responsible parents to protect their minor children from exposure to material which they as parents believe to be harmful to the normal and healthy ethical, mental, and social development of their children; and

"(5) that the traffic in such offensive advertisements is so large that individual citizens will be helpless to protect their privacy or their families without stronger and more effective Federal controls over the mailing of such matter.

"(b) On the basis of such findings, the Congress determines that it is contrary to the public policy of the United States for the facilities and services of the United States Postal Service to be used for the distribution of such materials to persons who do not want their privacy invaded in this manner or to persons who wish to protect their minor children from exposure to such material.

"(c)(1) Chapter 31 of title 39, United States Code, as amended by this Act, is further amended by adding at the end thereof the following new sections:

"'§ 3109. Mailing of sexually oriented advertisements

"'(a) Any person who mails or causes to be mailed any sexually oriented advertisement shall place on the envelope or cover thereof his name and address as the sender thereof and such mark or notice as the Board of Governors may prescribe.

"'(b) Any person, on his own behalf or on the behalf of any of his children who has not attained the age of nineteen years and who resides with him or is under his care, custody, or supervision, may file with the Board a statement, in such form and manner as the Board may prescribe, that he desires to receive no sexually oriented advertisements through the mails. The Board shall maintain and keep current, insofar as practicable, a list of the names and addresses of such persons and shall make the list (including portions thereof or changes therein) available to any person, upon such reasonable terms and conditions as it may prescribe, including the payment of such service charge as it determines to be necessary to defray the cost of compiling and maintaining the list and making it available as provided in this sentence. No person shall mail or cause to be mailed any sexually oriented advertisement to any individual whose name and address has been on the list for more than thirty days.

"'(c) No person shall sell, lease, lend, exchange, or license the use of, or, except for the purpose expressly authorized by this section, use any mailing list compiled in whole or in part from the list maintained by the Board pursuant to this section.

"'(d) "Sexually oriented advertisement" means any advertisement that depicts, in actual or simulated form, or explicitly describes, in a predominantly sexual context, human genitalia, any act of natural or unnatural sexual intercourse, any act of sadism or masochism, or any other erotic subject directly related to the foregoing. Material otherwise within the definition of this subsection shall be deemed not to constitute a sexually oriented advertisement if it constitutes only a small and insignificant part of the whole of a single catalog, book, periodical, or other work the remainder of which is not primarily devoted to sexual matters.

"'§ 3110. Judicial enforcement

"'(a) Whenever the Board of Governors believes that any person is mailing or causing to be mailed any sexually oriented advertisement in violation of section 3109 of this title, it may request the Attorney General to commence a civil action against such person in a district court of the United States. Upon a finding by the court of a violation of that section, it may issue an order including one or more of the following provisions as the court deems just under the circumstances:

"'(1) a direction to the defendant to refrain from mailing any sexually oriented advertisement to a specific addressee, to any group of addressees, or to all persons;

"'(2) a direction to any postmaster to whom sexually oriented advertisements originating with such defendant are tendered for transmission through the mails to refuse to accept such advertisements for mailing; and

"'(3) a direction to any postmaster at the office at which registered or certified letters or other letters or mail arrive, addressed to the defendant or his representative, to return the registered or certified letters or other letters or mail to the sender appropriately marked as being in response to mail in violation of section 3109 of this title, after the defendant, or his representative, has been notified and given reasonable opportunity to examine such letters or mail and to obtain delivery of mail which is clearly not connected with activity alleged to be in violation of section 3109 of this title.

"'(b) The statement that remittances may be made to a person named in a sexually oriented advertisement is prima facie evidence that such named person is the principal, agent, or representative of the mailer for the receipt of remittances on his behalf. The court is not precluded from ascertaining the existence of the agency on the basis of any other evidence.

"'(c) In preparation for, or during the pendency of, a civil action under subsection (a) of this section, a district court of the United States, upon application therefor by the Attorney General and upon a showing of probable cause to believe the statute is being violated, may enter a temporary restraining order or preliminary injunction containing such terms as the court deems just, including, but not limited to, provisions enjoining the defendant from mailing any sexually oriented advertisement to any person or class of persons, directing any postmaster to refuse to accept such defendant's sexually oriented advertisements for mailing, and directing the detention of the defendant's incoming mail by any postmaster pending the conclusion of the judicial proceedings. Any action taken by a court under this subsection does not affect or determine any fact at issue in any other proceeding under this section.

"'(d) A civil action under this section may be brought in the judicial district in which the defendant resides, or has his principal place of business, or in any judicial district in which any sexually oriented advertisement mailed in violation of section 3109 has been delivered by mail according to the direction thereon.

"'(e) Nothing in this section or in section 3109 shall be construed as amending, preempting, limiting, modifying, or otherwise in any way affecting section 1461 or 1463 of title 18 or section 3106, 3107, or 3108 of this title.'

"(2) The table of contents of chapter 31 of such title is amended by adding at the end thereof the following new items:

"'3109. Mailing of sexually oriented advertisements.

"'3110. Judicial enforcement.'

"(d)(1) Chapter 93 of title 18, United States Code, relating to offenses against the postal service, is amended by adding at the end thereof the following new sections:

"'§ 1735. Sexually oriented advertisements

"'(a) Whoever—

"'(1) willfully uses the mails for the mailing, carriage in the mails, or delivery of any sexually oriented advertisement in violation of section 3109 of title 39, or willfully violates any regulation of the Board of Governors issued under such section; or

"'(2) sells, leases, rents, lends, exchanges, or licenses the use of, or except for the purpose expressly authorized by section 3109 of title 39, uses a mailing list maintained by the Board of Governors pursuant to such section;

shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, and shall be fined not more than $10,000 or imprisoned not more than ten years, or both, for any second or subsequent offense.

"'(b) For the purposes of this section, the term "sexually oriented advertisement" shall have the same meaning as given it in section 3109(d) of title 39.

"'§ 1736. Restrictive use of information

"'(a) No information or evidence obtained by reason of compliance by a natural person with any provision of section 3109 of title 39, or regulations issued thereunder, shall, ex-

cept as provided in subsection (c) of this section, be used, directly or indirectly, as evidence against that person in a criminal proceeding.

"'(b) The fact of the performance of any act by an individual in compliance with any provisions of section 3109 of title 39, or regulations issued thereunder, shall not be deemed the admission of any fact, or otherwise be used, directly or indirectly, as evidence against that person in a criminal proceeding, except as provided in subsection (c) of this section.

"'(c) Subsections (a) and (b) of this section shall not preclude the use of any such information or evidence in a prosecution or other action under any applicable provision of law with respect to the furnishing of false information.

"'§ 1737 Manufacturer of sexually related mail matter

"'(a) Whoever shall print, reproduce, or manufacture any sexually related mail matter, intending or knowing that such matter will be deposited for mailing or delivery by mail in violation of section 3108 or 3109 of title 39, United States Code, or in violation of any regulation of the Board of Governors issued under such section, shall be fined not more than $5,000 or imprisoned not more than five years, or both, for the first offense, imprisoned not more than ten years or both, for any second or subsequent offense.

"'(b) As used in this section, the term "sexually related mail matter" means any matter which is within the scope of section 3108(a) or 3109(d) of title 39, United States Code.

"(2) The table of contents of chapter 83 of such title is amended by adding at the end thereof the following new items:

"'1735. Sexually oriented advertisements.
"'1736. Restrictive use of information.
"'1737. Manufacturer of sexually-related mail matter."

"(e) If any provision of this section, or the application thereof to any person or circumstance, is held invalid, the remainder of this section and the application of such provision to other persons and similarly situated or to other circumstances shall not be affected thereby.

"(f) The provisions of this section shall become effective on the first day of the sixth month which begins after the date of enactment of this Act."

POSTAL WORKERS DESERVE PRAISE

Mr. HATFIELD. Mr. President, as we debate the postal reform bill, much of our discussion centers on policy matters, fiscal considerations and large-scale operations. We must not lose sight, however, of the average postman and his importance.

I want to pay tribute to the thousands of dedicated postal workers across the country. I am sure that my colleagues here today share my belief that we must keep these workers' welfare in mind as we review the postal reform measures.

We all realize that the postal strike caused great damage across the country, but a positive reaction followed in the form of public recognition of the low wages paid to all postal workers. I believe that most Americans had been unaware of the low pay and slow promotion schedules that occur in our postal service.

I think it appropriate that we pause in our deliberation to note that we are served by legions of hard-working postal employees, and that we always should keep their welfare in our minds as we vote on these issues of postal reform.

Mr. MAGNUSON. Mr. President, I commend the esteemed members of the Post Office and Civil Service Committee and its distinguished chairman, the senior Senator from Wyoming (Mr. McGEE).

The U.S. Postal Service will hopefully allow for increased efficiency and economy in our mail delivery system. Yet it retains the primary goal and purposes of any postal system—a public service to the citizens and taxpayers of our Nation.

This bill has considerable merit. It will provide for greater continuity of management: an authority to acquire greatly needed new capital: A meaningful form of collective bargaining for the postal employees: and an independent rate-making commission.

This latter "reform" does pose a threat, a possible threat in my mind, to that paramount reason we have a postal service, service to the citizens of our Nation.

Our eminent majority leader has introduced an amendment—which I am happy to support—that will provide for an equalization of the burden of the costs of education, personal and public, by providing for a uniform national rate for educational materials.

Nevertheless, Mr. President, I believe we in the Senate must do more if we are to preserve—for all citizens everywhere—equality of access to the printed word and to educational materials.

The committee report has recommended that the new postal rate commission give consideration to the retention of the special fourth-class rate granted books and educational materials.

Mere "consideration" is not enough. We must insure that the special rate for books and educational materials is continued—or the ramifications for educational institutions and for the individual citizen wishing to avail himself of books and educational materials—could be disastrous.

Under the present law and rate structure a book weighing 1 or 2 pounds can be shipped from New York City to anywhere along the Pacific coast for 18 cents.

With the elimination of the special rate the cost of shipping that book would soar to $1.05—an increase of 600 percent.

In these times of increasing inflation—shrinking resources—and ever increasing demands upon our educational institutions—it seems particularly inopportune and unwise that we saddle those institutions with an increased financial burden.

The costs this burden would impose upon individual citizens who wish to improve their personal life with a new book or a film or educational materials is beyond calculation.

The costs such action would impose upon those States in the western part of our Nation is partially available.

The elimination of this special rate would cost the University of Washington at least $66,000 the very first year.

The University of Washington is the largest university in the Northwest serving over 33,000 students. Their library is the largest west of Chicago and north of San Francisco. This library is truly a regional resource serving 37 other colleges—public and private—in Washington State. Along with community libraries in the cities and towns of the Pacific Northwest.

This great library might have to curtail severely many of the services it now performs if the educational postage rate were eliminated.

The University of Washington currently pays over $7,500 in postal fees for the purchase of new books yearly.

The elimination of the special rate would raise that cost to $73,500—an increase of almost 1,000 percent.

The University of Washington currently pays over $550 a year in postage on inter-library loans—that expense would skyrocket about 10 times to some $5,000 per year.

In every State, this special rate for books and educational materials has been most beneficial. But in the West we are really under the economic gun when it comes to the purchase of books in quantity by our libraries, schools, and colleges—let alone the average citizen.

By the large the book publishers of America are located here on the east coast. Therefore, the shipping costs are a significant factor, and the special uniform rate has benefited the West—and any State distant from those publishers.

Last year our Washington State library purchased some 35,000 pounds of books. They paid the postage of over $8,500. Were it not for the special rate those postal charges would have been over $59,000—an increase of over 700 percent—an increase of over $50,000.

The end result would have been fewer purchases by several thousand titles and fewer books being made available to the patrons of this library and all the libraries that it serves.

Our Washington State library is not really "large" in number of volumes—but it is very active in services to all the public libraries in my State and in promoting the types of interlibrary cooperation that results in making books anywhere accessible to all our citizens regardless of where they reside.

Without the special rate I know they would remain as active as possible—but this preference the Congress has allowed in the past has helped them achieve the results that we have all encouraged and sought in our own States and for our fellow citizens.

Allow me to cite a few ramifications of what is involved here.

Last night—when the Senate took final action on the Office of Education appropriations—we endorsed several important programs in the library field.

Probably one of the most important—in relation to making library resources available to a greater proportion of citizens—are those which promote interlibrary cooperation.

We included some $5.7 million for interlibrary cooperation. In my own State—which is perhaps typical—we have been progressing very well toward the type of interlibrary cooperation we hope to achieve nationally.

Books and other library materials are being shared, so that any local library has ready access to the total library resources of the entire State—to the collections of all our colleges and univer-

sities, the larger cities and our State library.

The State library in Olympia coordinates an extensive program of interlibrary exchange of educational films. At the present time the postage for mailing these films is running $120 per month. Without the special rate that cost would skyrocket to $1,600 per month.

Obviously the film exchange program would be greatly curtailed if not eliminated were it not for the special rate.

In the eastern part of Washington State—in an area larger than the State of Rhode Island, but sparse in population—there is a regional library—the North West Regional Library in Wenatchee.

They have an excellent bookmobile program—and although it brings library services to countless small schools and rural areas, they recognized an unmet need even bookmobiles could not fill—books for shut-ins, the crippled and often physically handicapped.

So they established a "books at home" program, for the bedridden or the shut-ins living at home and often in remote rural areas.

They mimeograph a little catalog and mail it—along with an order card—to the bedridden and shut-ins. The mail order card is returned and the regional library then mails out the books requested.

Right now the average cost of those mailings to the library is 60 cents—for the reader it is the same when they return the books.

Without the special rate the costs would skyrocket to $3.15 an increase of $2.55 for the library and for the reader.

The taxpayers of north central Washington gladly support this service of their regional library—but that service would be curtailed or eliminated without this special rate.

And we know that the citizen readers involved could ill afford an increase in the costs they share in this program.

Let me cite one last example—which should be very close to home to every Member of the Congress.

During the session of the Washington State Legislature our State library has a special service that helps keep citizens in our State apprised of what is taking place in the State capitol.

On a daily basis the State library mails to some 150 local libraries throughout the State copies of all bills introduced—résumés of activity on the floor of the house and senate and legislative committee actions. Any citizen can then avail himself of this information that is available in those 150 libraries.

During the last session of our legislature, those mailings cost the State library some $540 in postage.

Without the special rate that cost would have skyrocketed to $5,400—an increase of 1,000 percent.

This is just another example of what this special rate for books and educational materials means to all our citizens.

Even with this special rate the postage costs are significant, but without that rate the postage rates in many instances would be prohibitive.

Now we all know, and recognize, that this is a subsidy, the actual costs of carrying these books and educational materials between libraries, from the publishers to the libraries, from the libraries to their patrons—the cost to the Postal Service certainly is not met by the rates charged.

I would be willing to say these materials come far closer to paying their way than much of the junk mail that we find in our offices and at our homes every day.

The only alternative to keeping this special rate for books and educational materials is increased taxes that support most of these libraries and schools—or increased appropriations under our aid to libraries—or curtailment of the services of libraries.

As this bill stands, it merely urges the commission to retain the special rate for books.

Mr. President, I do not think the Senate can afford to run such a risk.

I do not think we can depend upon the good intentions or good will of any rate-making commission or any future management of the U.S. Postal Service to be so charitable.

I think we should insure the ready access through this special rate for books and educational materials, to all libraries, educational institutions, and all of our citizens who are depending upon these services.

We cannot afford to leave the benefits such rate has made possible to chance or the caprice of others.

ALTERNATIVE NO. 1: SUPPORT OF MANSFIELD AMENDMENT

Mr. President, the Mansfield amendment would insure that there be a uniform rate on books and educational materials, regardless of distances involved.

This is certainly preferable to what has been proposed and that these items pay the same as other goods that fall within fourth-class mail.

This amendment will assist libraries in every State that participate in cooperative exchange of books and films and educational materials.

This amendment will greatly assist those libraries that are far distant from the book publishers and those who produce these educational materials.

Mr. President, I am proud to join with the Senator from Montana in urging adoption of this amendment.

MESSAGE FROM THE HOUSE

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 (Mr. METCALF):

S. 4012. An act to extend the Clean Air Act, as amended, and the Solid Waste Disposal Act, as amended, for a period of 60 days; and

H.R. 12858. An act to provide for the disposition of certain funds awarded to the Tlingit and Haida Indians of Alaska by a judgment entered by the Court of Claims against the United States.

THE POSTAL REORGANIZATION ACT

The Senate resumed the consideration of the bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

AMENDMENT NO. 748

Mr. YARBOROUGH. Mr. President, I call up my amendments No. 748.

The PRESIDING OFFICER. The amendments offered by the Senator from Texas will be stated.

The bill clerk proceeded to read amendments No. 748.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent to dispense with the reading of the amendments.

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

Amendments No. 748 are as follows:

PAY INCREASE

SEC. 2. (a) The President shall increase the rates of compensation (as such rates were increased under the Federal Employees Salary Act of 1970) included in the Postal Field Service Schedule and the Rural Carrier Schedule contained in sections 3542(a) and 3543(a), respectively, of title 39, United States Code, by amounts equal to, as nearly as may be practicable and with regard to maintaining equal increments with any level of any such schedule, 8 per centum of such rates.

(b) Rates of compensation of officers and employees paid under the schedules referred to in subsection (a) of this section shall be increased intially under conversion rules prescribed by the President or if the President so designates, by the Postmaster General.

(c) The increases made by the President under this section shall have the force and effect of law and shall be printed (1) in the Statutes at Large in the same volume as public laws, (2) the Federal Register, and (3) the Code of Federal Regulations.

(d) An increase in a rate of compensation which becomes effective under this section is not an equivalent increase in pay within the meaning of section 3552 of title 39, United States Code.

(e) Nothing in this section shall impair any authority pursuant to which rates of compensation may be fixed by administrative action.

(f) The rate of compensation of an officer or employee which is increased under this section shall be increased as of the first day of the first pay period for that officer or employee which commences on or after the date of enactment of this Act.

POSTAL RATE INCREASE

SEC. 3. (a) Section 4253 of title 39, United States Code, is amended—

(1) by striking out "6" in subsection (a) and inserting in lieu thereof "7"; and

(2) by striking out "5" in subsections (c) and (d) and inserting in lieu thereof "6".

(b) Section 4303 of such title is amended—

(1) by striking out "10" in subsection (a) and inserting in lieu thereof "11";

(2) by striking out "8" in subsection (b) and inserting in lieu thereof "9"; and

(3) by striking out subsection (d)(1) and inserting in lieu thereof the following:

"(d)(1) The rates of postage on air parcel post are based on the eight zones described in section 4553, or prescribed pursuant to section 4558, of this title in accordance with the following tables:

	"Zones					
	Local 1, 2 and 3	4	5	6	7	8
Not over 1 pound	$0.93	$0.93	$0.93	$0.93	$0.93	$0.93
Over 1 pound but not over 1½ pounds	1.14	1.19	1.25	1.33	1.38	1.45
Over 1½ pounds but not over 2 pounds	1.35	1.44	1.56	1.72	1.81	1.96
Over 2 pounds but not over 2½ pounds	1.63	1.73	1.89	2.09	2.23	2.43
Over 2½ pounds but not over 3 pounds	1.91	2.02	2.22	2.46	2.65	2.89
Over 3 pounds but not over 3½ pounds	2.19	2.31	2.54	2.84	3.07	3.36
Over 3½ pounds but not over 4 pounds	2.47	2.60	2.87	3.21	3.49	3.83
Over 4 pounds but not over 4½ pounds	2.75	2.89	3.20	3.58	3.91	4.29
Over 4½ pounds but not over 5 pounds	3.03	3.19	3.52	3.96	4.33	4.76"

For each pound or fraction of a pound in excess of five pounds in weight, the additional postage is as follows:

"Zones

	Rate
Local and zones 1, 2, and 3	$0.54
Zone 4	.58
Zone 5	.65
Zone 6	.75
Zone 7	.84
Zone 8	.93.".

(c) Section 4358 of such title is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Except as provided in subsection (b), the rate of postage on publications admitted as second-class mail when addressed for delivery within the county in which they are published and entered is as follows:

"[In cents]

Rate per pound	1.8
Minimum charge per piece	.2.";

(2) by striking out subsection (d)(1) and inserting in lieu thereof the following:

"(d)(1) Except as provided in paragraph (2), the rates of postage on publications mailed in accordance with section 4359(a) of this title, of qualified nonprofit organizations, are as follows:

"[In cents]

	"During calendar year 1970	"During calendar year 1971	"During calendar year 1972	"During calendar year 1973 and thereafter
Rate per pound:				
Advertising portion:				
Zones 1 and 2	4.0	4.7	5.3	5.95
Zone 3	4.7	5.6	6.5	7.35
Zone 4	6.1	7.5	8.8	10.15
Zone 5	7.5	9.3	11.1	12.95
Zone 6	8.05	10.0	12.0	14.0
Zone 7	8.05	10.0	12.0	14.0
Zone 8	8.05	10.0	12.0	14.0
Nonadvertising portion	2.45	2.45	2.45	2.45
Minimum charge per piece	.23	.23	.23	.23";

(3) by striking out "4.2" in subsection (f) and inserting in lieu thereof "4.9"; and

(4) by striking out of subsection (g) "is 0.6 cent per piece when mailed during the calendar year 1968, 0.7 cent per piece when mailed during the calendar year 1969, and 0.8 cent per piece when mailed thereafter" and inserting in lieu thereof "is 0.9 per piece".

(d) Section 4359(b) of such title is amended to read as follows:

"(b) Except as otherwise provided in this section and section 4358 of this title, the rates of postage on publications mailed in accordance with subsection (a) are as follows:

"[In cents]

Rate per pound:	
Advertising portion:	
Zones 1 and 2	6.1
Zone 3	7.5
Zone 4	10.3
Zone 5	13.0
Zone 6	15.9
Zone 7	16.9
Zone 8	4.0
Nonadvertising portion	4.0
Minimum charge per price	1.5."

(c) Section 4362 of such title is amended by striking out "5" and inserting in lieu thereof "6".

(f) Section 4422 of such title is amended to read as follows:

"§ 4422. Rates of postage

"The rates of postage on controlled circulation publications found by the Postmaster General to meet the definition contained in section 4421 of this title when mailed in the manner prescribed by the Postmaster General are as follows:

"[In cents]

Rate per pound	17.5
Minimum charge per piece	4.4."

(g) Section 4452(a) of such title is amended to read as follows:

"(a) Except as otherwise provided in this section, the postage rates of third-class mail are as follows:

"[In cents]

"Type of mailing	Rates	Unit
(1) Individual piece	7.0	1st 2 ounces or fraction thereof.
	2.0	Each additional ounce or fraction thereof.
(2) Bulk mailings under subsection (e) of this section, of—		
(A) Books and catalogs of 24 pages or more, seeds, cuttings, bulbs, roots, scions, and plants.	19.0	Each pound or fraction thereof.
(B) Other matter	26.0	Do.
(C) Minimum charge of	4.7	Per piece.

In lieu of the minimum charge per piece specified in the foregoing table, a person who mails for himself, or on whose behalf there is a mailing, under subsection (e) of this section, shall pay a minimum charge per piece of 4.4 cents on the first 250,000 pieces mailed during a year. For such purpose, the number of pieces mailed during a year shall be the aggregate of the pieces mailed under item (2) (A), (B), and (C) of the above table.".

(h) The amendments made by this section shall be effective on the first Sunday occurring on or after the thirtieth day after the date of enactment of this Act.

Amend the title so as to read: "A bill to increase the pay of postal employees and to increase postal rates."

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that two additional staff members who have worked on this matter be given the privilege of the floor.

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

Mr. YARBOROUGH. Mr. President, this is a simple amendment. It is six pages long. It would replace the entire 285 page monstrosity.

The amendment raises the pay of postal employees by 8 percent. It pays for itself. It is fiscally responsible.

It also raises first-class postal rates from 6 to 7 cents, an increase of 16⅔ percent. It raises the airmail rate by 1 cent. It raises second and third-class mail rates 16⅔ percent.

Mr. President, that 16⅔ percent would pay for the past postal employee raise of 6 percent and the present raise of 8 percent. So we would give the administration a 16⅔ percent increase in revenues, and it would be fiscally responsibile. It would meet the total 14-percent salary increase.

The issue is plain and simple. Are we going to have a postal service for the people? Are we going to keep this branch of the U.S. Government for service, or are we going to turn it into a profit-motive thing that will subordinate service to profit?

There is no doubt that we have limited official use documents in the Post Office Department showing what the situation will be in 5 years. These documents show that the service concept of the Post Office Department will be gone in 5 years' time. I shall put those documents in the RECORD. I think Congress should know what is being done to the postal service.

I intend to put in the RECORD, so that all the people can see what is going on, the so-called postal service review statements which bring into focus the basic, fundamental question of what a government should be in a democratic society.

When this Government was formed, the Continental Congress established two services, one a civilian service, which was the Post Office, and a military service, to fight the war. They were two indispensable functions of Government. One was a communications service in a democratic society. I think we should give that service in the postal department and that we should not operate on a profit motive. It is one branch of the Government that serves all the people all the time; under the previous Postmasters it served the people 6 days a week, but now only 5 days a week. The service has been declining.

If this "book" is adopted, it will be a defeat for the concept of performing a service for the people of the United States.

That is why we have a simple amendment six pages long. It will give the desired increase of 8 percent, and will provide an increase in revenue which is more than enough to pay for it.

Postal improvements are needed. We have spent so much money on other things, we have not put enough money into the Postal Service. As chairman of the Post Office Subcommittee on the Appropriations Committee for the past 2 years, I have told the Postmaster General I would vote to bring to this floor every penny he asked for to run the Post Office Department.

I have not only done that, but as chairman of our committee, I brought out,

and the full Appropriations Committee gave them not only all the money they asked for last year, but we put in an additional $5 million, so that they could continue afternoon business deliveries, which the Postmaster General had arbitrarily swept away.

When we questioned him about that, he said, "I keep them going where they are needed, where there is a demand."

I asked, "Where in the business district of Washington, Mr. Postmaster General, have you kept the afternoon mail service going?"

His answer was one building, the National Press Building. That was the only people he thought it was important to deliver mail. I guess that helped his image in the press, but all the other business buildings in Washington were excluded from afternoon mail service.

Time will not permit me to document this to this Nation over and over. But it is clear that there has been a tremendous decline in the postal service in the last year and a half. Now, with only limited time, the Senate is being urged to rush this bill through in the middle of the night. We are being urged to act upon a bill that would destroy something as basic as our Post Office Department, which was set up by the Continental Congress in 1774, with Benjamin Franklin as the first Postmaster General. Mr. President, if Benjamin Franklin knew what Blount was doing now, he would turn over in his grave. He would think that George III was back, and he would be about to be a rebel again.

This thing is called reform. That is the way the truth is kept from the people. The people think "reform" is a good word, that it indicates an improvement of something. But is this bill a reform? Is this book a reform? No, I submit this is not a reform measure, Mr. President, and for all the words used about it, if this passes, this Congress will not be voting a reform, it will be voting a regression, and a denial to the people of the Government's most basic service.

If we are to start turning the Government to a profit motive, why not take the Commerce Department or the Transportation Department, something big business uses most? Why pick on the people? The thrust of this bill is to convert one of America's oldest public service organizations, the Post Office Department, into a business dedicated to extracting from the public the maximum amount of profit possible, without regard to what segments of our society will suffer.

I am sure Senators will remember, a few weeks ago, when it was proposed that the first-class rate be fixed at 10 cents on a letter. Then a little later, there was a regression, and the Postmaster General said no, it would only be 8 cents on a letter. That was the prelude of things to come, Mr. President. We have here their printed documents. They were not secret. An abstract of these were printed in the Washington Evening Star for May 6, under the heading, "Post Office Department Quietly Curtails Services," and these documents, telling what is going to happen in 5 years, when the Post Office is made a 40-hour-week service, and when all of the services we have come to consider a part of the postal service are gone.

I questioned the Postmaster General about this information when he appeared before our committee. He was indignant that we had it. I did not have it first; the press had it first.

In this "5-year plan," he tells about how they are going to reduce the cost of the postal service. He itemizes, item by item, the 5-year plan for the postal service. This is what they are going to do to the people.

As laudable an objective as saving money is, Mr. President, it loses its appeal when these savings primarily are going to come out of the pocket of the general public, and then secondarily from the postal workers.

By this 5-year plan, as we discussed when it was given to us during these hearings, these reductions would be accomplished in nine steps.

First, the plan calls for the elimination of 6-day delivery and manned window service. They say this would save $5 million the first year, and $145 million by 1975. They step it up, step by step, year after year. The postal workers will suffer from that plan, Mr. President. At the end of 5 years, they would have 100,000 less postal workers in this country. The postal workers will suffer greatly under this plan. A few officials now in office might profit by it, but the postal workers are going to suffer terrifically. At a time when our unemployment rate has passed 5 percent and approaches 6 percent, we should not start cutting back on this basic service to the people. This is the most basic of all our public services.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has used 10 minutes of his time. He has 20 minutes remaining.

Mr. YARBOROUGH. Another thing planned in this so-called reform bill, covered in these documents, is a proposal which will have tremendous impact in the business districts and rural and star routes. It is proposed that Saturday collection will be deferred to Sunday, and Saturday parcel deliveries will be eliminated completely.

Processing of first-class mail would be deferred from Saturday to Sunday.

Window service on Saturday would be eliminated.

That is part of the price the people must pay.

Second, the 5-year plan calls for consolidating of mail processing centers. What would that mean? Here is the document. I have here the figures on the targeted payroll reductions. For fiscal year 1971, just 1 year, the reduction in Atlanta, Ga., will be $387,000.

Other reductions are as follows: Boston, $387,000; Chicago, $552,000; Cincinnati, $442,000.

These figures represent postal employees out of work. Some of the officials have been lobbying for this, to throw their own members out of jobs.

The list continues, Mr. President: Dallas, Tex., $331,000; Denver, $166,000; Memphis, $166,000; Minneapolis, $231,000; New York, $773,000; Philadelphia, $552,000; St. Louis, $276,000; San Francisco, $608,000; Seattle, $166,000; Washington, D.C. $331,000; Wichita, Kans., $166,000. These are the figures for the first year, Mr. President.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. YARBOROUGH. Mr. President, the plan raises another problem: It explains how small carrier stations will be consolidated into primary facilities when mail routes are motorized. It tells how post offices will be closed where it is economical, and this is a part of what they are offering.

The third step of this plan calls for the development of individual and group production standards that will result in a loss of $136 million in wages to the postal workers.

The plan goes on page after page, Mr. President. This is all set out here in these nine points.

How much are they going to reduce postal wages? That is the brunt of the plan. Postal wages represent service to the people. People in the postal service are hired to render service to the people, but here is where the reductions are going to be made.

Mr. President, there is a billion dollar deficit now. The plan says that by 1975, there will be a zero deficit. Where is that deficit going to be eliminated? In these nine stratagems. They call them stratagems; I think that is an appropriate word. They are stratagems against the people of this country, if we consider this service of the Post Office Department something to which the people are entitled. This robs them of it.

The plan calls for payroll reductions in area mail processing centers. Payrolls will be cut $7 million the first year; and will be reduced by $80 million by 1975.

Thirty minutes will not allow me to read all the things they are going to do to the people of this country, but I will put it in the RECORD, so they can read it tomorrow. The people need to be informed now, because at the end of 5 years they are going to be asking, who voted this burden on their backs.

Fourth, the plan calls for so-called new techniques for carrier office work which will reduce postal payrolls by $189,504,000 by fiscal year 1975. This is a high price to pay for so-called "efficiency standards" which have never been explained or described fully.

Fifth, mail delivery policies will be reduced by: Limiting mail delivery to a college, university or trailer court to only one delivery point at the facility; and only making one attempt to deliver parcel post.

Not only will these proposed practices seriously inconvenience countless people, over $9 million in postal wages will be lost.

Sixth, the plan contains an item referred to as "Basic services to customers." This should more properly be entitled "Disservice to customers." Under this proposal:

The small fourth-class post office would be replaced by a contract office;

The number of mail collection boxes would be reduced; and

Parcel post and certified mail would no longer be delivered to homes.

These inconveniences would cost postal workers over $36 million in wages by fiscal year 1975.

Seventh, the seventh step in the administration's plan for dismantling the Post Office is the so-called customer cooperation plan which in effect calls for the average citizen to help eliminate postal jobs by performing such tasks as sorting his mail and coding it himself. If our people participate fully in this program it would cost postal workers $172,000,000 in wages.

Eighth, this plan would also impose certain "standard levels of service" which would, among other things, eliminate the use of air transportation for first-class mail to points within 750 miles which will, in the words of an article which appeared in the May 21, 1970, edition of the Arizona Daily Star, "result in the deterioration of quality of first-class mail service at the very time the U.S. postal service needs improvement." This will cost postal workers over $34 million in lost wages.

Ninth, the final step in the administration's Post Office destruction plan "calls for standardized postal facilities," thereby eliminating jobs for postal workers at a cost of $154,869 million in wages.

This 5-year plan has been kept secret from the American public and the majority of Congress by the administration for good reason. Exposure of it at an early date would have aroused public opinion to the point where a bill of this nature would never have reached the floor of the Senate for a vote.

Mr. WILLIAMS of Delaware. Mr. President, will the Senator yield?

Mr. YARBOROUGH. I have only 30 minutes. I suggest that the Senator get his time from the other side.

These are the nine points that add up to $1 billion. This is not just taking it out of the Government workers who are about to lose their jobs. It is taking it away from the American people.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks several items from the Post Office Department with respect to the 5-year plan as to what they will do to the postal service in 5 years.

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

(See exhibit 1.)

Mr. YARBOROUGH. Mr. President, after these nine points, the final step is called the plan for standardized postal facilities. That also eliminates jobs for postal workers at a cost, by fiscal 1975, of $154,869,000 in wages.

This 5-year plan has been kept secret from the American public and the majority of Congress by the administration, for good reason. Exposure of it at an early date would have aroused public opinion to a point where a bill of this nature would never have reached the floor of the Senate for a vote.

Mr. President, I am on that committee; I am the senior member. I feel it is my duty to tell the people what is about to happen to them. I have been on the Post Office Committee longer than any other Member of the Senate. We have studied bill after bill. This one was pitched into our laps and voted out the same night. In the earlier bills they had written in guarantees. The first-class rate was to go up, but the slick magazines, second and third class, had a bill that provided that their rates could not be raised for 5 years.

That has been taken out of this version, but they would set up a Board of Governors and give them the power. Who has been advocating this so-called reform? The big magazines that were going to get that advantage. Who doubts that that Board of Governors is going to carry out what we saw in those earlier bills?

Before we vote on this important matter, I think it is important that this report be made public. Therefore, I ask unanimous consent that the document entitled, "Five-Year Planning for the New Postal Service" be printed in its entirety at the conclusion of my remarks. I also ask unanimous consent that an article which appeared in the May 6, 1970, edition of the Washington Evening Star entitled, "Post Office Quietly Curtails Some Services," by David Braaten and Philip Shandler, be printed in its entirety at the conclusion of my remarks.

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

(See exhibit 2.)

Mr. YARBOROUGH. In reviewing the administration's so-called 5-year plan, it is interesting to note that they describe their 9-step program for the destruction of the Post Office with the word "stratagem." Webster's Dictionary defines the word "stratagem" as being "a trick in war for deceiving the enemy; hence in general, deception; ruse." A ruse—that is the wording they have chosen to describe this. I think they have certainly used the correct word, because the 5-year plan is a trick to take this service away from the American people, and I do not believe that the people would ever adopt this plan if they knew about it in advance, and if it could be submitted to a vote of the people.

To obtain approval of S. 3842, the administration has ingeniously coupled its postal corporation plan with the postal pay raise proposal and are forcing millions of Americans in the postal service, who are terribly underpaid and who are badly in need of a pay raise, to swallow this bitter pill to get the pay raise.

My substitute would give the pay raise to the postal workers and would give the administration the money to pay for it by raising all first class letters to 7 cents and by raising second and third class by the same percentage, 16⅔ percent. There is a little hiatus. I only put the airmail to a 1-cent raise. That is not 16⅔ percent, but only about 11½ percent. If an 11½-cent rate stamp could be struck easily, it would be more compatible with the rest of the raise, and I would accept that amendment in this substitute.

For this reason I have introduced this substitute, so that the postal workers can receive their deserved pay raise and will not have to swallow this package.

This will not destroy the postal service, and it will pay the underpaid workers on the comparability they deserve, the comparability that was promised by Executive order and was written into law, which has long been denied them. They do not get the pay they deserve. We know the terrible trouble it has cost us.

We need some postal improvements in this country, but we ought to study them and not have them forced upon us in order to avoid a strike under this hurry-up plan, which we have not had an opportunity to study. This should be studied by every Member of the Senate, with an opportunity to digest it and decide for himself what he wants for postal service in this country.

Mr. President, this amendment would do justice to the postal workers, and it would be fiscally responsible. It will raise the money to pay for the raise which we have given them in the earlier 6 percent raise, and an additional, well-deserved 8-percent raise.

We are at the crossroads of decision on this matter. We must soon decide whether we will improve and continue America's oldest institution or turn it over to people who wish to use it as an instrument for making up Government budget deficiencies. I submit that we should not call on the postal service to bear the cost of other budget deficiencies in other branches of government. A 10-cent rate was decided to do that. It was stated that they were going to pay off raises for the general service employees as well as postal employees with that proposed increase.

If we accept this postal corporation concept now, we will have put in motion a dangerous movement that might lead to the dismantling of other Government institutions, such as the National Park Service. Some people want to charge fees enough to pay for the service. Shall we also dismantle the Forest Service, Department of Commerce, or the Department of Transportation?

Some nations charge for the weather service. We provide that without charge. That is a service of our Government. Mexico, our neighbor to the south, charges for it. We should not set in motion here a set of forces to turn Government services into profitmaking enterprises.

I urge Senators to study this 5-year plan and join with me in granting our postal workers this much-deserved pay raise and at the same time defeat this move to destroy the Post Office Department as a service of the Government.

EXHIBIT 1

FIVE-DAY OPERATION—FISCAL YEAR 1971

The plan contemplates the phased elimination of six day delivery and manned window service. Lock box service, special delivery and patron self-service will be continued.

We suggest that targeted payroll reductions be accomplished by actions in the following areas:

1. Discontinue one business delivery (generally Saturday) whenever possible.

a. Reduce Saturday collection schedules to Sunday.

b. Discontinue parcel deliveries on Saturday.

2. Compress mail processing tours from 3:00 PM Saturday to 3:00 PM Sunday.

3. Provide five day window service in finance stations.

a. Reduce window clerks staffing on Saturday as much as possible.

b. Consider window service on Friday night.

Targeted payroll reduction for fiscal year 1971
[In thousands]

Atlanta	$387
Boston	387
Chicago	552
Cincinnati	442
Dallas	331
Denver	166
Memphis	166
Minneapolis	221
New York	773
Philadelphia	552
St. Louis	276
San Francisco	608
Seattle	166
Washington	118
Northern Virginia	213
Wichita	166
Total	5,524

AREA MAIL PROCESSING—FISCAL YEAR 1971

This program envisions service improvement and increased productivity through the consolidation of outgoing mail handling functions into area mail processing plants.

We suggest that targeted payroll reductions be accomplished by actions in the following areas:

1. Consolidation of mail processing of associate offices in existing space at sectional centers; mechanize to the extent possible.

a. Complete at least one such program at an existing sectional center as shown on attachment.

2. Consolidation of mail processing of associate offices at sectional centers where new space is planned.

a. Complete at new sectional centers as shown on attachment.

3. Consolidate small carrier stations into primary facility when letter routes are motorized. Limit number of routes at such consolidated facility to about 70.

4. Consolidate sectional center facilities to provide economies of scale.

Targeted payroll reduction (in thousands)—for fiscal year 1971

Atlanta	$494
Boston	494
Chicago	706
Cincinnati	565
Dallas	424
Denver	212
Memphis	212
Minneapolis	283
New York	989
Philadelphia	706
St. Louis	353
San Francisco	777
Seattle	212
Washington	424
Wichita	212
Total	7,063

MODIFICATIONS TO MAIL DELIVERY POLICIES AND PRACTICES—FISCAL YEAR 1971

This plan envisions the review and revision of current policies for delivery of mail to colleges and universities and the number of delivery attempts on parcel post.

We suggest that targeted payroll reductions be accomplished by actions in the following areas:

1. Delivery to a single central delivery point at universities, colleges, trailer courts, etc. (new service)

2. Provide a single delivery attempt on parcel post.

Targeted payroll reduction (in thousands) for fiscal year 1971

Atlanta	$95
Boston	95
Chicago	135
Cincinnati	108
Dallas	81
Denver	41
Memphis	41
Minneapolis	54
New York	$189
Philadelphia	135
St. Louis	67
San Francisco	149
Seattle	41
Washington	81
Wichita	41
Totals	1,353

BASIC SERVICES TO CUSTOMERS—FISCAL YEAR 1971

The plan contemplates new and/or improved methods of providing services to customers.

We suggest that targeted payroll reductions be accomplished by actions in the following areas:

1. Expand the use of self-service equipment.

a. Additional vending units at postal locations.

b. Replace window service at selected units with self-service equipment.

2. Replace selected post offices or stations with contract units.

a. To increase service.

b. To replace finance stations.

3. Establish a village and suburban delivery service to be instituted in all communities eligible for city delivery for the first time. (a) by cluster box concept, (b) 5-day service, (c) 5-day collection service, (d) door delivery of registered, certified, numbered, insured and special delivery articles, (e) parcel pick-up at post office.

4. Reduce the number of collection points.

5. Philatelic Services.

Targeted payroll reduction (in thousands) for fiscal year 1971

Atlanta	$98
Boston	98
Chicago	141
Cincinnati	113
Dallas	84
Denver	42
Memphis	42
Minneapolis	56
New York	197
Philadelphia	141
St. Louis	70
San Francisco	155
Seattle	42
Washington	84
Wichita	42
Total	1,405

CUSTOMER COOPERATION—FISCAL YEAR 1971

This plan encompasses actions which the customer can take to help improve the postal service.

We suggest that targeted payroll reductions be accomplished by actions in the following areas:

1. Expand the VIM Program:

a. Single drop delivery:

(1) VIM facilities;

(2) Apartments;

(3) Urban renewal housing.

2. Expand the mail Early Program.

3. Initiate program of patron preparation of mail pre-sorting.

4. Increase ZIP CODE usage.

5. Initiate customer cooperative preparation of mail (poaching and directs) through the loan of equipment.

Targeted payroll reduction for fiscal year 1971
[In thousands]

Atlanta	$780
Boston	780
Chicago	1,115
Cincinnati	892
Dallas	669
Denver	334
Memphis	334
Minneapolis	446
New York	1,561
Philadelphia	1,115
St. Louis	558
San Francisco	1,226
Seattle	$334
Washington	669
Wichita	334
Total	11,147

FIVE DAY OPERATION

This plan contemplates the phased elimination of six day delivery and manned window service. Lock box service, special delivery and patron self-service will be continued. There will be concurrent savings in avoiding the costs of hiring, training and uniforming those new employees who would have been employed to cope with rising mail volume. Also, there will be concomitant savings in motor vehicle costs.

Payroll reduction (in thousands), fiscal year 1971, $5,524; fiscal year 1975, $145,530.

AREA MAIL PROCESSING

This program envisions a consolidation of all outgoing mail handling functions into 400 to 500 Area Mail Processing Plants in two phases, (1) from associate offices into sectional center facilities and (2) the consolidation of sectional center facilities. Service improvement and increased productivity will result through improved mail handling methods and increased mechanized mail processing. In addition, a major reduction in costs will occur in the facility acquisition programs. As the volume in mails handled at selected ffices is reduced, the need for additional space will also be reduced.

Payroll Reduction (in thousands), fiscal year 1971, $7,063; fiscal year 1975, $80,659.

PRODUCTION STANDARDS

This strategem contemplates the development and implementation of individual and group standards of production for distribution and delivery employees and refinement of existing standards for maintenance employees. Production standards will be developed which will assure on one hand a fair return to management for its salary dollar and on the other hand, full consideration of employees' capabilities, physical capacities, health and career development.

Payroll Reduction (in thousands), fiscal year 1971, $——; fiscal year 1975, $136,258.

NEW TECHNIQUES FOR CARRIER OFFICE WORK

This plan contemplates a fresh overall view of the carrier function, especially time he spends preparing his mail for delivery. It anticipates that new concepts of delivery, innovations in mechanized preparation and forwarding of mail and the simplification of carrier equipment will enable carriers to reduce their office time.

Payroll Reduction (in thousands), fiscal year 1971, $——; fiscal year 1975, $189,504.

MODIFICATION OF MAIL DELIVERY POLICIES AND PRACTICES

This program provides for the review, analysis and revision of current policies and practices for the delivery of all classes of mail. The plan is directed to the delivery of mail to a central point at universities and colleges. Other aspects of the program anticipate the reduction in the number of attempts to deliver parcel post and the charging of fees for holding "vacation mail."

Payroll Reduction (in thousands), fiscal year 1971, $1,353; fiscal year 1975, $8,663.

BASIC SERVICE IN CUSTOMS

This stratagem contemplates new and/or improved methods of providing services to customers. The plan substitutes the most modern postal equipment for out-moded manned window units by placing the equipment at strategic locations such as shopping centers and other points of customer concentration.

The plan also calls for establishment of cluster boxes in suburban areas to enable carriers to make more effective use of their route time and to provide speedier delivery of mail to customers.

Payroll Reduction (in thousands), fiscal year 1971, $1,403; fiscal year 1975, $36,163.

CUSTOMER COOPERATION

This stratagem encompasses actions which the customer can take to help improve the postal service. Its principal features are: (1) increased VIM installations in new and existing buildings, (2) improvements of mailing addresses, with emphasis on the inclusion of apartment numbers, (3) the 100% ZIP Coding of all mail of all classes and (4) provision of incentives, including postage discounts, to encourage large volume mailers to precode and presort quantity mailings and to deposit mailings early in the day.

Payroll Reduction (in thousands), fiscal year 1971, $11,147; fiscal year 1975, $161,182.

STANDARD LEVEL OF SERVICE

This stratagem involves the establishment of reasonably achievable standards of performance of services to the postal customer geared to a 7:00 PM time for the beginning of a "postal day." It includes; (1) development of realistic and uniform delivery service schedules for different classes of mail, (2) standards for window services and self-service postal units, (3) assurance of more rapid completion of claim processing and (4) faster and more adequate response to customer complaints, etc.

Payroll Reduction (in thousands), fiscal year 1971, $1,375; fiscal year 1975, $33,083.

STANDARDIZATION AND SPECIALIZATION OF POSTAL FACILITIES

Current planning, procurement and construction practices do not reflect advancements in all factors which affect postal buildings and equipment, including innovations in mail handling equipment. Accordingly, we contemplate revisions which would: (1) separate customer oriented functions from mail handling operations in most major facility planning, (2) develop new facilities to handle specific products and (3) develop and design facilities for optimum management effectiveness and efficiency.

Payroll Reduction (in thousands), fiscal year 1971, $——; fiscal year 1975, $154,869.

WASHINGTON REGION

Virginia.—Bristol, Farmville, Staunton, and Roanoke.

Maryland.—Easton and Salisbury.

West Virginia.—Bluefield, Buckhannon, Martinsburg, Parkersburg, Petersburg, Welch and Wheeling.

EXHIBIT 2

FIVE YEAR PLANNING FOR THE NEW POSTAL SERVICE

FOUR BASIC PLANS

Program plan, revenue plan, support plan, and transition plan.

Coordination of the program plan is the responsibility of the Bureau of Operations.

How will we develop the program plan?

We determine: 1. Where we are, 2. Where we want to go, 3. How we will get there.

Where are we?

[All figures in billions of dollars]

Cost:	
1970	8.1
1975	11.0
Income:	
1970	6.7
1975	7.8
Deficit:	
1970	1.4
1975	3.2

Where do we want to go? 1975—O Deficit.

How will we get there?

Economize $1 billion per year. The 9 Stratagems can produce a savings of 945 million constant dollars by 1975.

THE NINE STRATAGEMS

1. Five Day Operations,
2. Area Mail Processing,
3. Production Standards,
4. New Techniques for Carrier Office Work,
5. Modification to Mail Delivery Policies and Practices,
6. Basic Services to Customers,
7. Customer Cooperation,
8. Standardization & Specialization of Postal Facilities,
9. Standard Levels of Service.

FIVE DAY OPERATION

This plan contemplates the phased elimination of six day delivery and manned window service.

Payroll reductions

[In thousands]

Fiscal year 1971	$5,524
Fiscal year 1975	145,530

A. Five day delivery service: 1. Implement first in business areas (generally Saturday). a. Reduce Saturday collection schedules to Sunday. b. Discontinue parcel deliveries on Saturday. 2. Rural and star route service.

B. Compress mail processing tours from 3:00 p.m. Saturday to 3:00 p.m. Sunday.

C. Five day window service: 1. Finance stations. 2. Windows at 1st class then all others: a. Reduce window clerks staffing on Saturday. b. Consider Friday night service.

AREA MAIL PROCESSING

This program envisions a consolidation of all outgoing mailhandling functions into 400 to 500 area mail processing plants in two phases, (1) from associate offices into sectional center facilities and (2) the consolidation of sectional center facilities.

Payroll reductions

[In thousands]

Fiscal year 1971	$7,063
Fiscal year 1975	80,659

[1] Also would include incoming mail at selected offices.

A. Consolidate associate offices with sectional center facilities: 1. Into existing space. 2. Into planned space. 3. Into not yet planned space. 4. Consolidate small carrier stations into primary facilities.

When routes are motorized. Limit to about 70 routes.

B. Consolidate sectional center facilities to provide economies of scale.

STANDARDIZATION AND SPECIALIZATION OF POSTAL FACILITIES

This plan contemplates advancements in all factors which affect postal buildings and equipment including innovations in mail handling equipment.

Payroll reductions

[In thousands]

Fiscal year 1971	--------
Fiscal year 1975	$154,869

A. Separate customer contact function from mail processing.

B. Design facilities for specialization of product.

C. Limit size of post office with respect to maximum mechanization and management effectiveness.

STANDARD LEVELS OF SERVICE

This stratagem involves the establishment of reasonably achievable standards of performance of services to the postal customer geared to a 7:00 p.m. time for the beginning of a postal day.

Payroll reductions

[In thousands]

Fiscal year 1971	$1,375
Fiscal year 1975	33,083

A. Establish postal processing networks for the various classes of mail which provide for lower transportation rates.

B. Discontinue use of air transportation for 1st class mail to points within 750 miles.

C. Discontinue use of air taxis where justified for overnight delivery of 1st class mail.

D. New standards for SSP's and window services. 1. Reduce clerical hours.

CUSTOMER COOPERATION

This stratagem encompasses actions which the customer can take to help improve the postal service.

Payroll reductions

[In thousands]

Fiscal year 1971	$11,147
Fiscal year 1975	161,182

A. Expand VIM program: 1. Single drop delivery. a. VIM facilities, apartments, urban renewal housing.

B. Extend mail early program.

C. Patron Preparation of Mail. 1. Presort, precode. 2. Equipment loan.

D. Increase ZIP code usage.

BASIC SERVICES TO CUSTOMERS

This stratagem contemplates new and/or improved methods of providing services to customers.

Payroll reductions

[In thousands]

Fiscal year 1971	$1,405
Fiscal year 1975	36,163

A. Expand use of SSPU's: 1. Add vending units. 2. Replace window service with SSPU. 3. New mail service centers.

B. Replace selected locations with contract units.

C. Provide convenient philatelic services.

D. Reduce the number of collection points.

E. Establish new village and suburban delivery service—1. Cluster box concept. 2. Door delivery of signature articles. 3. Parcel post pick-up at post offices.

MODIFICATION TO MAIL DELIVERY POLICIES AND PRACTICES

This program provides for the review, analysis, and revision of current policies and practices for the delivery of all classes of mail.

Payroll reductions [in thousands]

Fiscal year 1971	$1,353
Fiscal year 1975	8,663

A. Single delivery point of mail for universities, colleges, trailer courts, etc.

B. One delivery attempt on parcel post.

NEW TECHNIQUES FOR CARRIER OFFICE WORK

This plan contemplates a fresh overall view of the carrier function, especially the time he spends preparing his mail for delivery.

Payroll reductions [in thousands]

Fiscal year 1971	--------
Fiscal year 1975	$189,504

A. Carrier delivery district concept: 1. Perform carrier sequencing at a different time. 2. Use more efficient carrier case. 3. Simplify route inspections. 4. Reduce distribution costs.

B. Machine sequencing carrier mail: 1. Reduce carrier and clerk cost.

C. Computer system for marking-up mail: 1. Reduce carrier and clerical costs.

PRODUCTION STANDARDS

This stratagem contemplates the development and implemenation of individual and group standards of production for distribution and delivery employees and refinement of existing standards for maintenance employees.

Payroll reductions [in thousands]

Fiscal year 1971	--------
Fiscal year 1975	$136,258

A. Clerical standards in 500 largest offices.

B. Delivery standards on city and rural routes.

C. Vehicle operations standards.

D. Revise equipment requirements.
E. Incentive pay—city carriers.

[From the Washington (D.C.) Evening Star, May 6, 1970]

POST OFFICE QUIETLY CURTAILS SOME SERVICES

(By David Braaten and Philip Shandler)

The Post Office is quietly compressing service and work schedules in what it calls an effort to eliminate waste.

Working documents envision elimination of the perennial postal deficit in five years, by cutting weekend work, consolidating and mechanizing facilities, and seeking more customer help in zip-coding, sorting and distribution.

In Washington, evening mail pickups have been eliminated, vending machines have replaced Saturday window service downtown, and weekend sorting work has been curtailed.

MEMO OUTLINES PLAN

Other potential reductions are outlined in a strongly worded memorandum to local postmasters from the director of the region that includes Washington, and in a set of papers on service nationwide over the next five years.

Frank J. Nunlist, assistant postmaster general for operations, said current cuts are being left largely to the discretion of regional directors, after careful study of local conditions.

Only services for which demand has dropped as a result of changing consumer patterns are being reduced, he said. The general shift to a five-day work week, for example, has made window service unnecessary at postal headquarters at 12th Street and Pennsylvania Avenue NW, he said.

Guidelines for reductions in the District, Maryland, Virginia and West Virginia are contained in a memo from regional director Carl Ulsaker to "all city delivery offices."

"Any deviation should be because of some exceptional condition which you should explain," he wrote local postmasters. The memo says:

1. "All morning collection service should be eliminated except that made by the letter carrier while serving his route . . ."

2. Late evening collections "should be abolished unless significant volume will be advanced in dispatch. If retained, it must be confined to selected high-volume boxes in business districts, shopping centers or along arterial highways . . ."

3. "In purely residential areas a 5 p.m. collection is unnecessary and the only collection should be made by the letter carrier while serving his route . . . This collection may be started earlier if essential in order to conserve manpower . . ."

ONE CITYWIDE COLLECTION

On weekends and holidays, "only one complete citywide collection is necessary," the memo says.

"Saturday service should be limited to collection by letter carrier or relay carrier in performance of their regular duties. Additional Saturday service to business districts may be provided only if warranted by local conditions."

In regard to window service—stamp sales, package handling, etc.—on Saturdays, the postmasters are advised to make an evaluation and "take appropriate action immediately to consolidate services and reduce number of windows required or compress over-all weekly window service hours."

WEEKEND ASSIGNMENTS

The memo also says that "assignment of clerks and mailhandlers on weekends must be reduced to a bare minimum to provide adequate service."

Among the steps called for are:

1. Eliminating or deferring the sorting of incoming and outgoing "non-preferential" mail between 6 p.m. Friday and 6 a.m. Monday.

2. Deferring from Saturday night to Sunday the processing of outgoing first class mail.

3. Reducing the processing of incoming first class mail between 6 a.m. Saturday and midnight Sunday to special delivery and box mail, "and maintaining a level of mail compatible with clerical assignments on Tour 1 (early morning) Monday."

The memo also suggests scrutiny of coffee breaks, "visiting" among employes, early departures from work and personal telephone calls, for "potential man-hour savings."

Officials were reluctant to discuss the details of moves being made here and elsewhere to eliminate waste. But Nunlist and others made these general observations:

Morning collections from mailboxes formerly were made by truck drivers who relayed delivery mail to postmen on foot. Now, most mailmen have their own vehicles and can collect mail themselves.

Most first-class mail now is business communications, so fewer collections are necessary in residential areas.

Business has shifted to a five-day week, and downtown services—like window service at 12th and Pennsylvania—are scarcely needed on the weekend.

Less mail is moved by train and more by plane, so deadlines for sorting can be spaced further apart.

Many people have switched to the telephone for the kind of communications they used to mail, especially on weekends, others said.

REORGANIZATION MOVE

The reductions are being made as the Nixon administration presses for congressional approval of a reorganization of the Post Office into a corporation-like executive agency, and for new mail rates.

Reorganization giving the Post Office financing power now vested in Congress could speed the mechanizations and facility-development envisioned in the five-year forecasts, developed by Nunlist's Bureau of Operations.

The format of the forecasts consists of nine "stratagems" aimed at wiping out a deficit (estimated at $1.4 billion this year) that would otherwise climb to $3.5 billion by 1975.

The "strategems" outlined for the postmaster general's consideration, and the estimated payroll reductions for fiscal 1971 and 1975, include:

Five-Day Operation. (1971: $5,524,000; 1975: $145,530,000) "This plan contemplates the phased elimination of six-day delivery and manned window service."

Lock box access, special delivery and self-service facilities would be unaffected.

NEW METHODS

Area Mail Processing. (1971: $7,063,000; 1975: $80,659,000). This program would consolidate all outgoing-mail-handling functions into 400 to 500 "area mail processing plants," with "improved mail-handling methods and increased mechanized mail processing."

Production Standards. (1971: No estimate; 1975: $136,258,000). This involves the "development and implementation of individual and group standards for distribution and delivery employes, and refinement" of maintenance employes' standards.

New Techniques for Carrier Office Work. (1971: No estimate; 1975: $189,504,000). "This plan contemplates a fresh over-all view of the carrier function, especially time he spends preparing his mail for delivery." Increased mechanization and "new concepts" of delivery are involved, to reduce office time.

Modification to Mail Delivery Policies and Practices. (1971: $1,353,000; 1975: $8,663,000). This calls for delivery of mail to a "central point" at universities and similar facilities, reducing to one the attempts to deliver parcels, and charging fees for holding vacation mail.

Basic Services to Customers. (1971: $1,405,000; 1975: $36,163,000). Replacement of "outmoded" window service with modern, self-service equipment in shopping centers is envisioned, plus "cluster boxes" in suburban areas, and replacement of "selected post offices or stations with contract units."

Customer Cooperation. (1971: $11,147,000; 1975: $161,182,000). One of the biggest items in the nine-point savings plan, this assumes increased participation in the mailing process by customers, such as 100 percent ZIP coding, inclusion of apartment numbers in addresses, "single drop delivery" at apartment houses and urban renewal housing, and discounts offered as incentives to bulk mailers for pre-coding and pre-sorting their mail and getting it out early in the day.

Standard Levels of Service. (1971: $1,375,000; 1975: $33,083,000). This stratagem involves what the planners term "reasonably achievable standards of performance of services to the postal customer geared to a 7 p.m. time for the beginning of a postal day."

Standardization and Specialization of Postal Facilities. (1971: No estimate; 1975: $154,869,000). This concerns procurement and construction practices for post offices and equipment. "Customer-oriented" functions, like stamp sales, would be separate from new mail-handling facilities, and these facilities would handle "specific products," like parcel post.

Mr. WILLIAMS of Delaware. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. On whose time?

Mr. BOGGS. On my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, may I inquire, what is the time situation?

The PRESIDING OFFICER (Mr. TOWER). The Senator from Wyoming has 30 minutes remaining and the Senator from Texas has 5.

Mr. McGEE. I thank the Chair. I shall take just 1 minute and then be prepared to yield back the remainder of the 29 minutes.

Mr. President, I want to suggest that the committee opposes this amendment, for obvious reasons.

The proposed amendment would salvage the substance of the labor-management negotiations and leaves out the rest of the postal reorganization that was also a basic part of the negotiations and discussions.

I feel compelled to oppose the amendment.

I am ready now to yield back the remainder of my time if the Senator from Texas will also.

Mr. YARBOROUGH. Mr. President, I yield back the remainder of my time, in the interest of saving time, because the hour is late.

Mr. FONG. Mr. President, just let me say that we should vote the amendment down.

The PRESIDING OFFICER (Mr.

TOWER). All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from Texas.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Maryland (Mr. TYDINGS), are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND), would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Kentucky (Mr. COOPER) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "nay."

The result was announced—yeas 5, nays 84, as follows:

[No. 202 Leg.]

YEAS—5

Ellender	McCarthy	Young, Ohio
Fulbright	Yarborough	

NAYS—84

Aiken	Goldwater	Montoya
Allen	Goodell	Moss
Allott	Gore	Murphy
Anderson	Gravel	Muskie
Baker	Griffin	Packwood
Bayh	Gurney	Pastore
Bellmon	Hansen	Pearson
Bennett	Harris	Pell
Bible	Hart	Prouty
Boggs	Hartke	Proxmire
Brooke	Hatfield	Randolph
Burdick	Hollings	Ribicoff
Byrd, Va.	Hruska	Saxbe
Byrd, W. Va.	Hughes	Schweiker
Cannon	Jackson	Scott
Case	Javits	Smith, Maine
Church	Jordan, N.C.	Smith, Ill.
Cook	Jordan, Idaho	Sparkman
Cotton	Kennedy	Spong
Cranston	Long	Stennis
Curtis	Magnuson	Stevens
Dole	Mansfield	Symington
Dominick	Mathias	Talmadge
Eagleton	McClellan	Thurmond
Eastland	McGee	Tower
Ervin	McIntyre	Williams, N.J.
Fannin	Miller	Williams, Del.
Fong	Mondale	Young, N. Dak.

NOT VOTING—11

Cooper	McGovern	Percy
Dodd	Metcalf	Russell
Holland	Mundt	Tydings
Inouye	Nelson	

So Mr. YARBOROUGH's amendment (No. 748) was rejected.

Mr. METCALF. Mr. President, I am pleased to join with my colleague from the State of Montana, the distinguished majority leader (Mr. MANSFIELD) and with the distinguished minority leader from the State of Pennsylvania (Mr. SCOTT) and my distinguished colleague (Mr. CRANSTON) of California in sponsoring amendment No. 739 to S. 3842.

The distinguished majority leader has said, this amendment merely continues the long-standing congressional policy that rates on books, educational, and library materials be on a uniform national basis rather than zoned by distance. While S. 3842, by creation of the five-man Postal Rate Commission, delegates to that Commission the power to set postal rates and classifications, it is imperative that the Commission recognize the long-established national policy of this country in acknowledging the importance of the mails in the distribution of books and other educational materials.

While the amendment reserves to the Commission the function of setting the level of these rates, the Commission must, in making rate and classification determinations, take into consideration the intent of Congress as expressed in the committee report and in this amendment. If enacted the amendment assures the public the broadest possible access at minimal cost to informational, educational, scientific, technical, and literary publications, films and recordings, and other materials in rural as well as urban areas.

Literacy is recognized as the cornerstone of education, and the national need for progress in literacy extends well beyond the classroom or any particular age group. Diverse cultural forms must be available to every segment of our vast population if we are to have a true exchange of ideas. Understanding is enhanced by the free exchange of ideas and cultural forms through books, films, and recordings used by individuals, libraries, schools, and organizations dedicated to such intellectual development. Reduced nationwide flat rates for books, educational films, and library materials are necessary to achieve these goals.

The burden of mailing costs falls largely on the addressee, including educational institutions, libraries and, equally important, homes depending on the mails for access to books and other educational materials. There must be no discrimination because of geographic location for the distribution of these educational materials. A reversion to zoned rates for the shipment of books would impose a severe penalty on States far removed from the production centers of these materials. Individual schools and libraries pay the postal shipping charges on these materials as a separate and identifiable cost. An increase in the cost of getting materials to far-flung areas would result in a net decrease in the purchasing ability of the individual schools and libraries involved. As the distinguished majority leader has pointed out, if the special rates are removed, it will add an additional $130,000 of postage on circulation of library materials in our State of Montana. This can only mean a deterioration in services throughout the State and the denial to the people of Montana of the opportunity to receive these educational materials because of geographic location. This is true not only in Montana, but to all residing in States removed from the traditional production areas of these items. In remote and thinly populated areas of this country where libraries must serve their customers by mail, any elimination of a library interchange rate would be a severe blow to library service and public enlightenment.

Mr. MOSS. Mr. President, I intend to support President Nixon on his request for postal reform.

For nearly 2 years we have worked in the Post Office and Civil Service Committee to fashion a bill which meets the President's request for improved postal service which includes:

Independence from politics.

Better working conditions and wages for postal employees.

Self-support of postal service.

Growth to meet expanding demands for postal service. It is my firm hope that our bill will do this, therefore, I do not intend to weaken or change it on the floor of the Senate to exempt some organizations from paying postage, to upset the pay-your-way formula for postal patrons, to limit employee rights to bargain for wages and working conditions, to impair in any way the existing laws in right-to-work States like Utah, to force any person to violate his religious tenets against joining a union.

I shall vote for the Nixon bill on postal reform.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. BARTLETT, one of its reading clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 17868) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending June 30, 1971, and for other purposes; that the House receded from its disagreement to the amendment of the Senate numbered 7 to the bill and concurred therein; that the House receded from its disagreement to the amendments of the Senate numbered 8, 9, 11, 12, and 13 to the bill and concurred therein, severally with an amendment, in which it requested the concurrence of the Senate.

THE POSTAL REORGANIZATION ACT

The Senate continued with the consideration of the bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment. The Chair recognizes the Senator from Oklahoma.

AMENDMENT NO. 751

Mr. BELLMON. Mr. President, I call up amendment No. 751 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 171, strike out lines 15 through 20 and insert in lieu thereof the following:

"The National Labor Relations Board shall decide in each case the unit appropriate for collective bargaining in the Postal Service. The National Labor Relations Board shall not include in any bargaining unit—".

On page 172, line 19, strike out "national".

On page 172, lines 23 and 24, strike out "national exclusive recognition and national".

On page 175, line 7, strike out "national".

Mr. BELLMON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. BELLMON. Mr. President, I modify my amendment by adding at the bottom of the amendment:

On page 281, lines 8 and 9, strike out "national exclusive".

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. BELLMON. Mr. President, the amendment is designed to free postal employees from any legislatively mandated membership and permanent confinement in seven national so-called craft unions by permitting the National Labor Relations Board to apply the normally accepted standards in determining what are the appropriate units—industrial, craft, or a combination thereof.

Examples of unions which would be put out of business under the language of the Senate bill as it presently exists are the National Alliance of Postal and Federal Employees and the National Postal Union, commonly known as the NPU, with a combined membership of approximately 125,000 postal and Federal employees.

Mr. President, collective bargaining, which is provided for in the proposed legislation, is a sham if the employees are denied the right to freely select their bargaining representatives.

An appropriate unit is the essence of the right of collective bargaining and should not be determined arbitrarily by the Congress, as proposed in the pending legislation.

Some proponents of the pending bill may attempt to convey the impression that the independent industrial unions are seeking some kind of favoritism, while at the same time grabbing a bigger portion of the legislative pie. This is simply not the case.

All the amendment seeks to do it to put all unions in an equal position at the starting line.

It is my understanding that no union, organization, or individual had the right to bargain for wages or fringe benefits under Executive Order No. 10988, signed by the late President Kennedy, or Executive Order No. 11491, signed by President Nixon.

I, therefore, feel that Congress should stay out of the business of deciding labor-management relations by legislative mandate.

Mr. President, I ask unanimous consent that the names of the senior Senator from New York (Mr. JAVITS) and the junior Senator from New York (Mr. GOODELL) be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

Mr. BELLMON. Mr. President, I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. GOODELL. Mr. President, I rise to cosponsor Senator BELLMON'S amendment to the pending postal reform legislation. This amendment will assure an equal opportunity for all labor organizations to demonstrate that they represent a majority of the employees in a post office, city, or area. It will allow any union so demonstrating to be certified by the National Labor Relations Board as the appropriate unit for purposes of collective bargaining. This amendment would in no way direct the Board to certify any particular union or any particular unit, but would leave the Board free to make an appropriate determination. It assures nothing save equality of opportunity.

The present language of the Senate postal reform bill, at section 1302, which this amendment would alter, requires the Board to make a finding that any appropriate unit must be a national one. The practical effect of the present language is to bar from certification all but the nationwide, craft-based postal unions with headquarters here in Washington, even though in any particular city or area, the overwhelming majority of the postal workers or the majority of the workers in one of the postal crafts may be members of, and may desire representation by another postal union.

Under the present language of the bill, Mr. President, the third largest union of postal employees will be excluded forever from the bargaining table. This is the 80,000-man National Postal Union, which is not a national craft union. This independent union, which represents approximately 10 percent of all Post Office employees, has its membership concentrated in the big cities.

Twenty-six thousand members of the National Postal Union are in the boroughs of Bronx and Manhattan of New York City. They were, when they felt unjustly treated before, leaders of the recent national postal stoppage. Now the Senate bill proposes to legislate them out of existence, to destroy them. Can we be so bound in illusion as to assume that they, faced with this new injustice, will not once again take vigorous action to fight for their very survival?

Under the present language of the Senate bill, the fourth largest Post Office union in the country, the National Alliance of Postal Employees, will also be forever excluded from certification for bargaining with the postal corporation. Dare we assume that the 37,000 members of the alliance will complacently view, and passively accept, the destruction of the organization which they have long labored to build?

The amendment which I am cosponsoring strikes the reference to "national units" in the Senate bill. This change would allow the Board to make a finding, if appropriate, that the proper unit for representation was still the Nation as a whole. The nationwide unions would not be barred from certification. But, on the other hand, if it were found that a more restricted area is more appropriate, the change in language which I am proposing would allow such a finding. The present language would not allow such a finding. Only nationwide units could be certified under the present language.

Under the language of the amendment, Congress does not dictate to the Board any particular position on what constitutes the appropriate unit for bargaining purposes in the Postal Service. It leaves the Board free to make a finding, on such basis as it feels appropriate, as to what is the appropriate unit. The present language has Congress direct the Board to make a finding only on a national basis.

The present language, further, would restrict the units which may be certified by the Board to national craft unions. Industrial unions made up of all employees of a post office or area could not receive recognition. I submit, Mr. President, that to include such a requirement in any piece of labor legislation in this day and age is clearly undesirable. Such language would permanently prohibit recognition of any industrial union in the Postal Service. The craft unions, which have a history running back a hundred years in some instances, could win recognition whether the amendment is adopted or not. It poses no threat to those unions who are doing a good job of representing postal workers. There is little reason, then, why the Congress should force upon any group of workers in the United States one type of union and one alone. This is an extraordinary step.

I wonder, Mr. President, if all memory of the struggles of the Congress of Industrial Organizations to organize our mass production industries in the 1930's has gone from these Halls. Have we totally forgotten the magnificent organizing job Hillman and Lewis and Reuther and Murray did? Has everyone forgotten that out of this competition for membership and representation between the AFL and the CIO came the vital labor movement of today, made up of both craft unions and industrial unions, each on an equal footing, each equally a part of the American labor movement?

I do not believe, Mr. President, that the Congress of the United States should take sides with either the craft or the industrial unions, should dictate that either form must be the exclusive type to secure representation under our laws.

Mr. President, I cannot believe that this Congress will take this step. I regret deeply that this issue ever arose here. We are threatened with opening a Pandora's box of old, forgotten hatreds and fratricidal strife. This craft versus industrial unions issue can only lead to disaster for labor, for management, for America. Let us remove this threat from the postal reform bill. The amendment will in no way, make recognition of any existing postal union impossible. The present language makes recognition of any but the nationwide unions impossible. In the name of fairness, of union democracy, and congressional impartiality, let us under the law favor no one type of union, but give all an equal chance.

Mr. President, we are in danger of another postal strike at the present time.

Mr. President, our postal workers are justifiably frustrated. They have been living on promises. I believe we should move tonight to put this provision in the bill which will give fairness to all unions under the law. I believe we should go on to enact retroactively the pay increase and get this bill passed so union members will have justice.

The PRESIDING OFFICER (Mr. DOMINICK). Who yields time?

Mr. FANNIN. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Wyoming desire to yield time?

Mr. McGEE. Mr. President, are we proceeding under the 1-hour time limitation or would the Senator from Oklahoma be willing to consider a lesser time limitation?

Mr. BELLMON. I am virtually finished and then I will yield back the remainder of my time.

Mr. McGEE. Mr. President, I do not know how much time the Senator from Oklahoma has used. If we were to agree on 15 minutes to a side would that be agreeable?

Mr. BELLMON. Mr. President, how much time have I used already?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. BELLMON. Mr. President, 15 minutes is agreeable.

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

Mr. McGEE. Mr. President, on behalf of the committee I wish to explain what transpired in the dialog on this proposal and then I would be prepared to yield back the remainder of my time.

We have had long conversations with the leadership of each of the independent unions. We have had conversations with colleagues on the House side in terms of trying to understand the problem this represents, for example, in areas like New York City, in particular.

I thought we had worked out an understanding where we would take the two versions to conference and agree that everybody could be taken care of in conference, and the reason for that is specific.

There was negotiated downtown, for better or for worse, a labor-management collective bargaining agreement. It seemed on all sides better to honor the agreement rather than to tamper with it and then settle it in conference. It was our understanding with the leadership of each of the independent unions that this was an accepted settlement.

Mr. President, for that reason, in order to keep our part of the bargain we feel we would have to oppose the amendment from the floor. We believe it is one of those areas that would be taken to conference.

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

Mr. McGEE. I yield.

The PRESIDING OFFICER. How much time does the Senator yield?

Mr. McGEE. Mr. President, I yield such time up to 15 minutes as the Senator may require.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. FONG. Mr. President, I am fearful that if we exclude the word "national" as it relates to labor unions we will find ourselves in tremendous trouble and we will find ourselves dealing with every unit in every post office all over the country. I do not think we want to be in that position.

We realize the situation in the postal system in New York, but this is one problem we discussed with the union and we were going to conference to see what could be worked out. But if we knocked out the word "national" I am afraid the Post Office Department would be bargaining with 35,000 or 32,000 post office units where each could represent a bargaining unit.

I do not think we want that kind of situation. We understand that in New York they have this very large unit and they should be given consideration. We had intended in this bill to give them the right to represent their members in grievances. We had intended to do so but it did not get in the bill. We gave them the right to negotiate, to use checkoffs and other privileges; but if we knock out the word "national" I am afraid we will get into a lot of trouble.

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

Mr. FONG. I yield.

Mr. PASTORE. Does the Senator from Rhode Island understand there is an agreement in which the heads of these independent unions had participated and that this is agreeable to them?

Mr. FONG. We had discussed this with them and I do not know if it is agreeable with them, but it is understood we are going to take this to conference and try to work out something.

Mr. PASTORE. And they understood it?

Mr. FONG. They understood it.

I think we should not tie our hands in conference, and I think that by excluding the word "national" in this language we will find ourselves in a barrel of trouble.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, I am prepared to yield back the remainder of my time.

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

Mr. McGEE. I am glad to yield to the Senator from New York.

Mr. GOODELL. Mr. President, I think the concern of the Senator from Oklahoma, and my concern also, is that even if it were agreeable to settlement in conference, page 157, lines 8 and 9 of the House bill, contains this language, which starts on line 6:

> As soon as practicable after the enactment of this Act, the Postmaster General and the labor organizations that as of the effective date of this section hold national exclusive recognition rights granted by the Post Office Department, shall negotiate an agreement or agreements covering wages, hours, and working conditions of the employees represented by such labor organizations.

Mr. President, that language is in the House bill. I believe we have comparable language in the Senate bill at page 281, lines 6 through 12, do we not?

Mr. McGEE. The Senate language is similar to that, yes.

Mr. GOODELL. My concern is that if there is similar language in both the House bill and the Senate bill, this would freeze in the requirement "hold national exclusive recognition rights granted by the Post Office Department," and that is why I think it is vital to deal with that section on page 157.

Mr. McGEE. It is the recollection and understanding of the Senator from Wyoming in our conversations with the independent leadership of these unions that the House language was prepared and cleared with them for its interpretation in order to satisfy this need. That is the reason we had not considered any tampering with the House language in that section.

Mr. GOODELL. Is it the Senator's understanding that the language I quoted, referring to "national exclusive recognition rights" would not preclude an agreement in conference that would permit the continued existence of the local collective bargaining units?

Mr. McGEE. That is correct.

Mr. GOODELL. They could bargain for wages and other conditions?

Mr. McGEE. Absolutely, that is correct.

Mr. GOODELL. I thank the Senator.

Mr. JAVITS. Mr. President, will the Senator yield to me for 2 minutes?

Mr. BELLMON. I yield to the senior Senator from New York for 2 minutes.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. JAVITS. Mr. President, the Senate had 2 routes to go. It could either enact the substitute, which was the House bill, with the best things from the Senate bill, or work the other route, which is what it is doing now.

This is the redemption of the promise to postal workers that they be treated like workers in the private sector. In the private sector they would not have this boom lowered on them. We are asking only that they have the same opportunities locally as national unions. It is not giving them anything. I hope very much the measure will be approved.

Mr. McGEE. Mr. President, when we are prepared to yield back the remainder of our time I will move to table the measure for the obvious reason as a parliamentary procedure, but I do not want to preempt the time until we have used it up.

Mr. BELLMON. Mr. President, I ask unanimous consent that the name of the Senator from Arizona (Mr. FANNIN) be added as a cosponsor of the amendment.

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

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

Mr. BELLMON. I yield.

Mr. MURPHY. Do I understand that in the post office reorganization there has been a consideration in meetings which were held and agreements made whereby the people who will work in the post office—must join a certain union or join one of several unions, or they will be denied the right to work in the post office and will not have a free choice to select the union of their own selection?

Mr. McGEE. No. There is nothing that compels that in either bill, as far as I know. Nothing compels that. In the pending amendment that is not the issue. However, in the overall legislation pending, all that the Senate bill proposes, under the Taft-Hartley Act, section 14(b), is that in those States that have the right-to-work laws that takes precedence over other legislation. In those States which do not have right-to-work laws, there remain open, among the options that we ask here, elections, if that is what they choose. In most cases, in practical terms, 90 or 95 per-

cent of them are in a single union, including the New York area.

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

Mr. McGEE. I am glad to yield.

Mr. HANSEN. I would like to ask the Senator from Wyoming if he may have been present when the distinguished junior Senator from Tennessee made the point, and if he was present would be comment upon the observation made by the distinguished junior Senator from Tennessee when he said that it was his understanding that section 14(b) would invalidate, as I understood him, the application of a State right-to-work law, if the activity of the affected worker was one that affected interstate commerce.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired. Does the Senator from Oklahoma yield any time?

Mr. McGEE. Mr. President, will the Senator from Oklahoma yield a moment to me on that point?

Mr. BELLMON. Mr. President, how much time remains to me?

The PRESIDING OFFICER. Four and a half minutes.

Mr. BELLMON. I yield one minute to the Senator from Wyoming.

Mr. McGEE. Mr. President, it is the chairman's understanding and interpretation and advice from legal counsel that section 14(b) exempts nothing in interstate commerce; that State right-to-work laws prevail under the 14(b) provision. It is part of the labor law at the present time.

Mr. GOODELL. Mr. President, will the Senator yield to me?

Mr. BELLMON. Mr. President, I yield 1 minute to the Senator from New York.

Mr. GOODELL. Mr. President, I know the Senator from Wyoming is dealing with a very difficult issue. It is a complex area, with different views as to meaning and different views at different times; but I must say to the chairman of the committee and the Senate that I have just met with the representatives of the independent National Postal Union and they indicate that there has been no such agreement. They are concerned about the language which I quoted to the Senator because it does appear that it would preclude anything except national unions being recognized for collective bargaining and negotiation purposes.

It is conceivable, under the House language and the Senate language, that we could come out of conference with a provision that would permit local unions to continue to exist—I believe that is true of the Senate bill—but they would exist only to handle grievance proceedings, and they could not be involved in real negotiations as far as wages, working conditions, and other factors that are so critical are concerned.

The amendment offered by the Senator from Oklahoma, myself, and other Senators would make it clear, not that the local unions are going to exist, but that the National Labor Relations Board would be empowered to make a decision as to who are the proper representatives for bargaining purposes of the workers in each case.

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

Mr. BELLMON. Mr. President, I yield 1 additional minute to the Senator from New York.

Mr. GOODELL. I think it is critical that we face this issue here tonight. The House bill is generally acceptable in the fact that it does provide that there can be local unions; it does not permit solely national craft unions to exist. But the House bill does contain language that clearly indicates that we are going to end up with national exclusive bargaining, which will be one of the major postal unions, or several of them. It will exclude completely local unions from vital decisions in vital negotiations. I believe that decision should be left to the Board.

If we do not delete the language, there will be no option in conference but to go along with national negotiations solely with national unions, and local unions will be wiped out for bargaining purposes.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma has 1½ minutes left. The Senator from Wyoming is fully out of time.

Mr. BELLMON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Oklahoma has yielded back the remainder of his time. All time of the Senator from Wyoming has expired. The question is on agreeing to the amendment——

Mr. FONG. Mr. President, I ask unanimous consent to have 2 minutes so that I may try to clarify this matter.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Senator from Hawaii is recognized for 2 minutes.

Mr. FONG. Mr. President, I believe the distinguished Senator from Oklahoma is looking at page 157 of the House bill and a similar section in the Senate bill, which deals with transitional collective bargaining. It is only in that particular that the two provisions of the House bill and the Senate bill each read alike. So, in that respect, during the transitional period, even if it went to conference, there would be no change.

But when it comes to the time when the National Labor Relations Board, as provided in the Senate bill, decides which shall be the bargaining unit, section 1302 of the Senate bill reads:

> The National Labor Relations Board shall decide in each case the national unit appropriate for collective bargaining in the Postal Service. Such units shall be national craft units such as those previously recognized under Executive Order 10988. The National Labor Relations Board shall not include in any bargaining unit—

And so forth. Under the House bill we have a similar provision which reads a little differently from the Senate bill, section 233, bargaining units:

> The National Labor Relations Board shall decide in each case the unit appropriate for collective bargaining in the Postal Service . . .

So when it comes to the time when the National Labor Relations Board shall enter into the picture, it is the group that shall decide which unit is the appropriate collective bargaining unit. But in the Senate version we limit it to those of national craft units, whereas the provision of the House bill does not. In that particular instance the House and the Senate will be in conference on that particular matter. So I will say that, as far as the bargaining unit is concerned, this matter will be thrashed out in the conference.

The PRESIDING OFFICER. The time of the Senator from Hawaii has expired. All time has expired. The question is on agreeing to the amendment of the Senator from Oklahoma.

Mr. McGEE. Mr. President, I ask unanimous consent to have 30 seconds.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Wyoming is recognized for 30 seconds.

Mr. McGEE. Mr. President, in conference with my colleague from Hawaii on the proposal advanced by the Senator from Oklahoma, we have agreed to drop the language of the bill the phrase "national exclusive recognition," on page 281, to permit and to insure, in case of doubt, because of the uncertainties, that this would in fact be a legitimate subject for conference. In that way it protects the intent both ways.

I am wondering what the disposition of the Senator would be in light of the acceptance of that.

The PRESIDING OFFICER. Does the Senator from Wyoming ask unanimous consent that the committee substitute be so modified?

Mr. McGEE. Mr. President, I ask unanimous consent that the committee substitute be so modified.

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

Mr. JAVITS. Mr. President, will the Senator yield to me?

Mr. McGEE. I asked for only 30 seconds.

The PRESIDING OFFICER. All time is expired. Without unanimous consent, we cannot proceed further.

Mr. JAVITS. Mr. President, I ask unanimous consent that we may have a quorum call without its being charged to either side.

The PRESIDING OFFICER. Is there objection?

Mr. GOODELL. Mr. President——

Mr. JAVITS. Mr. President, the Chair recognized me. What is the ruling?

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

The PRESIDING OFFICER. Without objection, it is so ordered. I wonder if the Senator from Wyoming could send to the desk for clarification purposes the method by which he modified the committee amendment.

Mr. McGEE. Yes; here is the modification.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk read as follows:

> On page 281, lines 8 and 9, strike out the words "national exclusive".

Mr. McGEE. Mr. President, the Senator from Oklahoma wanted to be heard.

Mr. BELLMON. Did the Senator get more time?

Mr. McGEE. He has to ask for the withdrawal of his amendment.

The PRESIDING OFFICER. The Chair has already announced that the modification of the committee amendment, without objection, has been agreed to.

Mr. McGEE. Yes, but the Senator from Oklahoma has to withdraw his amendment.

The PRESIDING OFFICER. The amendment of the Senator from Oklahoma (Mr. BELLMON) is now pending. What is the Senator's pleasure?

Mr. BELLMON. Mr. President, I ask unanimous consent that my amendment be withdrawn.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McGEE. Is it now in order for——

The PRESIDING OFFICER. At the present time, there is no amendment pending.

AMENDMENT NO. 752

Mr. BELLMON. Mr. President, I call up my amendment No. 752.

Mr. McGEE. Mr. President, would the Senator from Oklahoma yield for a brief explanation of just what has transpired here, for the RECORD?

Mr. BELLMON. I yield for that purpose.

Mr. McGEE. What we have just agreed to, with the Senator from Oklahoma and the Senator from New York, was to change the language in the section on page 281, the three words "national exclusive recognition" in the one area of the two bills, the House and Senate bills, where the language is identical. By changing that language, it entitles us to take this question to conference, and in that way, we are now free to resolve in conference with the House of Representatives the objectives sought by the Senator from Oklahoma and the Senators from New York on the question of recognizing the independent unions.

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

Mr. McGEE. I yield.

Mr. PASTORE. I think we ought to make it clear in the record that while there is some sympathy here for the recognition of the independent unions, what we are doing now is not to exclude the participation of national unions. I mean we want to make that clear.

Mr. McGEE. Yes; the record is clear.

Mr. PASTORE. In other words, the Senate is not now backing away from recognition of the national unions. I want to make that clear.

Mr. McGEE. That is right.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor. The clerk will state his amendment.

Mr. MILLER. Mr. President, will the Senator yield so I can ask a question of the Senator from Wyoming?

The PRESIDING OFFICER. The Senator from Iowa will wait until the clerk states the amendment.

The assistant legislative clerk proceeded to read the amendment.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BELLMON's amendment (No. 752) is as follows:

On page 142, line 6, strike all matter through and including line 5, page 143.

On page 140, between lines 6 and 7, strike the following:

" '303. Members of Congress serving on the Federal Boards of Governors' ",

and in lieu thereof the following items:

" '303. Assistant Postmasters General and the General Counsel.
" '304. Procedures of the Board of Governors.
" '305. Advisory Council.
" '306. Seal.
" '307. Judicial Officer.' "

On page 143, line 6, strike "SEC. 304." and in lieu thereof insert the following: "SEC. 303.".

On page 143, line 14, strike "SEC. 305." and in lieu thereof insert the following: "SEC. 304.".

On page 144, line 6, strike "SEC. 306." and in lieu thereof insert the following: "SEC. 305.".

On page 145, line 21, strike "SEC. 307." and in lieu thereof insert the following: "SEC. 306.".

On page 146, line 3, strike "SEC. 308." and in lieu thereof insert the following: "SEC. 307.".

Mr. MILLER. Mr. President, willl the Senator from Oklahoma yield 3 minutes to me, so that I may ask the Senator from Wyoming a question?

Mr. BELLMON. I am pleased to yield to the Senator from Iowa.

Mr. MILLER. I thank the Senator. If I may have the attention of the Senator from Wyoming, following along the line of the question of the Senator from Rhode Island (Mr. PASTORE), would it not be fair to say, as a matter of legislative history in connection with this amendment, that it is intended that the overall policy of Congress be that the national unions generally be in the picture, rather than to have a condition where we might have 26,000 local unions involved?

The Senator from Wyoming made quite a point of that in his argument against the original Bellmon amendment, and I must say I think most of us thoroughly agree that we do not want to get into that condition. So while this amendment leaves it open for a few exceptional cases, such as the New York situation, and also for the nationals, the overall policy is to look to the national unions as the major collective bargaining agents?

Mr. McGEE. Yes; but to keep open the free option for others to go through the regular procedures and maintain their role, their independence.

Mr. MILLER. That is right; but that will be in the nature of an exception to the overall policy.

Mr. McGEE. This will have to be tested, then, down the line, in the future. In other words, Congress is not preempting that decision.

Mr. MILLER. I understand. But I think we ought to have a legislative policy that we are generally looking to the national unions as distinguished from all the many thousands of locals.

Mr. McGEE. That is true.

Mr. MILLER. I thank the Senator.

SEVERAL SENATORS. Vote! Vote!

Mr. McGEE. Can the Senator agree to a time limitation on this amendment?

Mr. BELLMON. This will take approximately 5 minutes.

Mr. McGEE. Can we agree on a 5-minute time limitation on the amendment?

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

Mr. BELLMON. Mr. President, the purpose of this amendment is very simple. Under the terms of the Senate bill, two Members of the House and two Members of the Senate serve on the Board of Governors of the new Postal Service. It is my hope, as a member of the committee and as a Member of the Senate, to get Congress completely out of the post office business. It is my feeling that if we have two Members of the House and two Members of the Senate on the Board of Governors, our constituents are still going to feel that we are choosing the rural carriers and the rural postmasters and have the impression back home that we are still running the Post Office Department.

I feel that the language should be deleted.

Mr. McGEE. Mr. President, the Senator made a very eloquent case in the committee on this point—namely, the presence on the Board of Governors of four nonvoting Members of Congress—two from the House and two from the Senate. That is the key.

In the original proposal that came from downtown on postal reorganization, they were urging a congressional representation. It was the ultimate judgment of the committee in session that so long as they were nonvoting and could lend the counsel and the advice that still ties the public interest factor in postal affairs to the concern of Congress, this would be the least complicated of the ways to do it. There may be other ways; we examined a number of alternatives. This seemed to hold fewer complications than some of the others.

For this reason, the committee would have to oppose the Senator's amendment, which would eliminate the four nonvoting Members of Congress.

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

Mr. McGEE. I yield.

Mr. FONG. Is it not true that in some of the versions of our bill, we did leave out the advisory members?

Mr. McGEE. Yes, we did, in the early version.

Mr. FONG. And then employees of the Post Office came to see us, and said they were afraid that they would not be able to speak to the Board of Governors; so they wanted some liaison between the Board of Governors and themselves, and they asked us to put them back in.

Mr. McGEE. That is correct.

The PRESIDING OFFICER (Mr. MONTOYA). Who yields time?

SEVERAL SENATORS. Vote! Vote!

Mr. BELLMON. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. McGEE. I yield back the remainder of my time.

Mr. BELLMON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Oklahoma. 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 Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Maryland (Mr. TYDINGS) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Illinois (Mr. PERCY). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Illinois would vote "nay."

The result was announced—yeas 38, nays 52, as follows:

[No. 203 Leg.]

YEAS—38

Aiken	Ellender	Miller
Allen	Fannin	Murphy
Anderson	Fulbright	Pearson
Baker	Gravel	Proxmire
Bellmon	Griffin	Saxbe
Byrd, Va.	Gurney	Smith, Ill.
Cook	Hansen	Spong
Cooper	Hartke	Stennis
Cotton	Hollings	Stevens
Curtis	Hruska	Thurmond
Dole	Hughes	Williams, Del.
Dominick	Jordan, Idaho	Young, N. Dak.
Eagleton	Mathias	

NAYS—52

Allott	Hart	Packwood
Bayh	Hatfield	Pastore
Bennett	Jackson	Pell
Bible	Javits	Prouty
Boggs	Jordan, N.C.	Randolph
Brooke	Kennedy	Ribicoff
Burdick	Long	Schweiker
Byrd, W. Va.	Magnuson	Scott
Cannon	Mansfield	Smith, Maine
Case	McClellan	Sparkman
Church	McGee	Symington
Cranston	McGovern	Talmadge
Eastland	McIntyre	Tower
Ervin	Metcalf	Williams, N.J.
Fong	Mondale	Yarborough
Goodell	Montoya	Young, Ohio
Gore	Moss	
Harris	Muskie	

NOT VOTING—10

Dodd	McCarthy	Russell
Goldwater	Mundt	Tydings
Holland	Nelson	
Inouye	Percy	

So Mr. BELLMON's amendment (No. 752) was rejected.

Mr. MAGNUSON. Mr. President, I call up my amendment and ask that reading of the amendment be dispensed with. I can explain it.

The PRESIDING OFFICER (Mr. MONTOYA). Without objection, it is so ordered, and the amendment will be printed in the RECORD.

The amendment of the Senator from Washington is as follows:

On page 209, following line 22, insert the following:

"§ 3111. Mailing of Unordered Merchandise

"(a) Except for (1) free samples clearly and conspicuously marked as such, and (2) merchandise mailed by a charitable organization soliciting contributions, the mailing of unordered merchandise or of communications prohibited by subsection (c) of this section constitutes an unfair method of competition and an unfair trade practice in violation of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1).

"(b) Any merchandise mailed in violation of subsection (a) of this section, or within the exceptions contained therein, may be treated as a gift by the recipient, who shall have the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender; and all such merchandise shall have attached to it a clear and conspicuous statement informing the recipient that he may treat the merchandise as a gift to him and has the right to retain, use, discard or dispose of it in any manner he sees fit without any obligation whatsoever to the sender.

"(c) No mailer of any merchandise mailed in violation of subsection (a) of this section or without the exceptions contained therein, shall mail any recipient of such merchandise a bill for such merchandise or any dunning communications.

"(d) For the purposes of this section, 'unordered merchandise' means merchandise mailed without the prior expressed request or consent of the recipient."

Mr. MAGNUSON. Mr. President, this is the same amendment which passed the Senate earlier, and I yield now to the Senator from Wyoming.

Mr. MCGEE. Mr. President, I ask unanimous consent that this body accept this action in which it appended the Magnuson amendment to the Baker substitute, inasmuch as this body has acted on that amendment and it will save our time if we transfer the action to this bill.

The PRESIDING OFFICER (Mr. MONTOYA). The question is on agreeing to the amendment of the Senator from Washington.

The amendment was agreed to.

AMENDMENT NO. 744

Mr. FANNIN. Mr. President, I call up my amendment No. 744 and ask that its reading be dispensed with.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with and the amendment will be printed in the RECORD.

The amendment of the Senator from Arizona, No. 744, is as follows:

AMENDMENT No. 744

"(c) Notwithstanding the provisions of this Act or of the National Labor Relations Act, as amended, each employee of the Post Office Department shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and such employee shall be protected in the exercise of this right."

Mr. FANNIN. Mr. President, I ask unanimous consent that the names of Senator CURTIS, Senator GOLDWATER, Senator THURMOND, Senator HOLLINGS, and Senator DOLE be added as cosponsors of my amendment.

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

Mr. FANNIN. Mr. President, I shall take but a short time to explain the amendment. This matter has been debated for some time. Many articles have been submitted for the RECORD from newspapers all over the Nation concerning it. I have a great many statements with me tonight which I shall not read which I believe most Members have seen.

I believe that this is something that we should vote upon. If anyone here still thinks the point is invalid concerning what is provided in the executive order originated by the late President Kennedy and the letter signed into effect by President Johnson and then more recently by President Nixon, I say that if anyone doubts this, they should read the statement by Prof. Kurt L. Hanslowe of Cornell University and the former assistant general counsel of the United Workers, who said recently:

> The union shop in public employment has the potential of becoming a neat mutual back-scratching mechanism, whereby public employee representatives and politicians each reinforce the others' interest and domain, with the individual public employee and the individual citizen left to look on, while his employment conditions and his tax rate and public policies generally are being decided by entrenched and mutually supportive government officials and collective bargaining representatives over whom the public has diminishing control.

I believe that statement emphasizes exactly what I have been trying to bring about in the statements I have been making and the educational discussion we have carried on over the past few weeks. We can also look into the CONGRESSIONAL RECORD and read the statements made by our colleagues in the other body.

This legislation will take a Federal executive agency of 750,000 employees and place it under cover of a statute from which they are now excluded. For the first time in history, a group of Federal employees who aspire to work for the Federal Government in the postal service, would be faced with the prospect of union membership as a condition of employment and will be dismissed for failure to join a union if a union shop agreement is entered into.

Mr. President, the hour is late. If the Senate permits a postal reform bill to pass that legalizes compulsory unionism we will have taken a giant step down the road to the enforced unionization of all public employees at the Federal, State, and local levels. The militant union boss, Jerry Wurf, president of the American Federation of State, County, and Municipal Employees, is already urging legislation on Congress in the form of a public employees relations act that would provide for the legalization by the Congress of union shop agreements for all public employees.

I emphasize again that this is a very simple amendment and merely provides that notwithstanding the provisions of this act or the National Labor Relations Board as amended, each employee in the Post Office Department shall have the right freely without fear of penalty or reprisal, to form, join, or assist a labor organization or to refrain from any such activity. And such employees shall be protected in the exercise of this right.

Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, to prevent the introduction of subsidized fiefdoms at the Federal level, to avoid coercing workers to pay a part of their salary for compulsory dues, and to avert the creation of political slush fund, I join my distinguished colleague from Arizona (Mr. FANNIN) in cosponsoring his amendment to remove the compulsory union shop provision from S. 3842.

Mr. President, the Hatch Act established the legal restraints on political activity by Government employees. But S. 3842 would not only allow politicization, it would force it. To support both the Hatch Act and this measure is to simultaneously restrain, yet compel; admonish, yet advocate; punish, yet promote political involvement.

To call for repeal of the Hatch Act while supporting this bill is simply to substitute compulsion for prohibition—merely another species of coercion.

A much more appropriate, consistent approach would protect the worker's right to refrain from joining a labor union as well as his right to participate. The approach represents more than the embodiment of a concept against coercion. It is more than a simple repetition of the right to work principle first enunciated for Federal employees in 1962 by President John F. Kennedy in Executive Order 10988.

It is the only barrier remaining against the incursion of the spoils system into the Government.

To separate the obscure, tangled argument from the rather stark reality of this legislation, let me make two simple statements which advocates of the unamended proposal could not deny.

First. Under present law, every Federal employee—including postal employees—is guaranteed the right to make his or her own decision to become a member of an organized labor group. This right cannot be denied by agreement between union officials and the Post Office Department.

Second. Under S. 3842 as reported by the Senate Post Office Committee, the officials of the postal administration can negotiate union shop contracts which abrogate that freedom. There are some who say that legislation of this sort does not legislate closed shops, but merely makes their creation an issue within the bargaining process. They point to the difference between compelling compulsion and merely permitting it. Yet how many of those who blur the distinction between de jure racial segregation and de facto separation wash their hands clean of de facto-forced unionism? How many of those who refuse to perceive a difference between the roles of Government in creating one condition, hide behind minute distinctions involving another? Make no mistake—if we pass this bill, in unamended form we would be doing the forcing, we would be creating the conditions, we would be, in effect, signing the closed shop contract for the Post Office employees.

I am reminded of the words of Supreme Court Justice William O. Douglas in a recent decision on union versus individual rights:

> The collection of dues for paying costs of collective bargaining of which each member is a beneficiary is one thing. If, however, dues are used, or assessments are made, to promote or oppose birth control, to repeal or increase the taxes on cosmetics, to promote or oppose the admission of Red China into the United Nations, and the like, then the group compels an individual to support with his money causes beyond what gave rise to the need for group action.—*I.A.M.* v. *Street*, 367 U.S. 740 (1961).

It is this use of compulsory dues dollars for political purposes that would characterize the new spoils system should it be ushered in by adoption of S. 3842 in unamended form.

It is often said, by the proponents of closed shops, that those who oppose them merely do so to bolster the bargaining position of management. Yet I can report that the significance of this bill is not lost on the rank-and-file workers either.

One of my constituents, Mrs. Eleanor M. Hewitt, a postal clerk in Sabetha, Kans., wrote:

> I believe each and every postal employee should have the right to elect whether we want to belong to the union or not.

The "Eleanor Hewitts" are the people most affected by S. 3842. It is they who will be victimized under a spoils system. And it is neither the postal nor the union but the Congress which will be responsible.

Mr. President, let those who support the intentions of the Hatch Act speak now to preserve its effects. Let those who oppose it speak now to preserve their consistency. Let those who refuse to focus on the difference between de facto and de jure involvement apply their blurred standards to this issue. And let those who claim to defend the rights of workingman, act now for the workingman.

Mr. FANNIN. Mr. President, I yield to the distinguished Senator from North Carolina.

Mr. ERVIN. Mr. President, I have drafted and had intended to offer an amendment (amendment No. 750) to the pending bill. This amendment would accomplish the same result which the amendment offered by the distinguished Senator from Arizona would accomplish. Consequently, I shall not offer my amendment. However, I ask unanimous consent that it be printed in full at this point in the RECORD.

The PRESIDING OFFICER (Mr. MONTOYA). Without objection, it is so ordered.

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

AMENDMENT NO. 750

> On page 180, line 13, change the period at the end of subsection (a) of section 1309 to a colon, and insert immediately thereafter a proviso reading as follows: "*Provided, however*, That no officer or employee of the Postal Service shall be required to join or financially support any labor organization as a condition of employment."

Mr. ERVIN. Mr. President, no man is truly free unless he has a right to join a union or to refrain from joining a union. We have heard arguments to the effect that the Postal Service under the pending bill is to be converted into something in the nature of a private shop and that therefore we should have laws governing the relationship of the Service representing the Government and the employees in the Postal Service similar to those which prevail in private industry.

Mr. President, I deny the validity of that observation.

I would like to call the attention of the Senate to the fact that what we are doing is providing for a public service similar to that which has been performed by the Post Office Department since Benjamin Franklin was Postmaster General.

Section 101 of the pending bill, which appears on page 137, has this to say:

> The United States Postal Service shall be operated as a basic and fundamental service provided to the people by the Government of the United States, authorized by the Constitution, created by Act of Congress, and supported by the people.

In the light of that statement, it is absurd to say that we are dealing here with a relationship similar to that between a private employer and his employees.

I also invite the attention of the Senate to section 102 which provides as follows:

> To provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining, and to prevent either reductions in services or unreasonable increases in postal rates, there shall be appropriated to the Postal Service each year an amount of money which shall represent the public service cost of operating the Postal Service.

So we still have here, not a transferral of the postal service of this Nation to a private organization, but we have here, just as we have always had, the rendition of a public service conforming to the Constitution of the United States which establishes the Post Office Department.

I stated a moment ago, I believe, that every man should have the right to join a union or the right to refrain from joining a union. I also believe that where persons voluntarily join a union—it makes no difference whether they are Federal employees or employees of a private employer—they should have the right to negotiate through representatives of their choosing with their employer, whether it be the Federal Government or a private employer, in respect to conditions of their employment insofar, as those conditions are not regulated by acts of Congress.

This bill proposes for the first time in American history that Federal employees shall be compelled to pay to labor unions sums of money for the privilege of working for the Government of the United States.

The bill proposes to give to unions as autocratic a power as the kings of France had in their most despotic days.

The doctrine prevailed in France at the time French kings possessed virtually absolute power over the lives of their subjects that "the right of working is a royal rights which the prince can sell and the subjects must buy."

Frenchmen had to pay their king for the right to earn a living during France's most despotic days.

Here we have a proposal for compulsory unionism in the Federal service, in the Postal Service. And this demand for compulsory unionism in the Postal Service is based upon an adaptation of the doctrine which prevailed in France in its most despotic days.

This is the doctrine as it is enunciated in the Congress of the United States by those who advocate compulsory unionism in the postal service: The right to work in the postal service is a labor union right which the labor union can sell and the individual worker must buy if he is to be allowed to earn a livelihood for himself and his loved ones with his own hands and his own talents in the postal service.

During a previous generation, labor unions rightly condemned so-called yellow dog contracts whereby employees were required to agree either to join a union selected by their employer or to abstain from joining any union whatever.

A demand for compulsory unionism in the Post Office Department or the postal service is a demand for a yellow dog contract in another form. There is no difference in the eyes of freedom between a yellow dog contract which says that a man cannot join a union and a yellow dog contract which says that he must join a union.

There is not a particle of difference between those two propositons. They are blood brothers. Neither of them has any right to a place in a free society.

There is quite a difference between working for a private employer and working for the Government. The right to work for a private employer is a limited right. But the right to work for the Government ought to be an absolute right on the part of any man who is competent to perform the duties the Government requires of him and who is able to meet the qualifications of his employment. No man ought to be required to pay union dues as the price of working for his own Government.

I say without fear of being successfully controverted that compulsory unionism has no place in a free society. In saying this I do not derogate the value of unions in our society or deny them any right to which they are entitled. Unions are voluntary associations, like churches, and other voluntary associations. All voluntary associations in the United States, except unions, are required to obtain their members by persuasion. That is the way churches get their members, that is the way all other voluntary organizations get their members. No free man ought to be compelled to join any organization against his will for the purpose of earning the privilege of eating his bread in the sweat of his own face. And no man should be required to join a union or to financially support a union except by his own free choice.

Any country which sanctions by law compulsory unionism is not, in fact, a truly free society. Compulsory unionism is alien to liberty. I have never understood why any organization should have the right to draft people against their wills into membership and to levy upon them tributes against their wills.

I have heard all of the arguments about free riders, and that unions are required to negotiate for everyone in a bargaining unit at the bargaining table. That requirement is not something imposed upon the unions; that is a power the unions seek.

The contest going on upon the floor of the Senate at this moment is the oldest contest earth has ever known. During every generation of mankind there has been a contest between tyranny on the one hand and freedom on the other.

The great poet Rudyard Kipling, who was also a great statesman, wrote a poem entitled "The Old Issue," in which he speaks of the eternal conflict which goes on between tyranny and freedom. He points out in "The Old Issue" in most eloquent fashion some truths which we would do well to meditate upon at this moment as we are asked to impose compulsory unionism upon 750,000 supposedly free Americans.

I do not question the motives of those who seek to impose compulsory unionism upon postal employees. They undoubtedly believe that the unions know what is best for them and that they ought to be willing to cooperate with unions for their own good.

I venture to assert that no man is truly free unless he is at liberty to manage his own life, even though in doing so he may take a course of action which either the union or the Congress deems to be foolish.

Inasmuch as Rudyard Kipling was an Englishman, he spoke of the great conflict between tyranny and freedom as a conflict between the people and the king. We will appreciate his poem better if we identify the king in meaning with the Government of the United States.

Kipling truly said:

All we have of freedom, all we use or know,
This our fathers bought us long and long ago.

Ancient Right unnoticed as the breath we draw,
Leave to live by no man's leave, underneath the Law.

Lance and torch and tumult, steel and grey-goose wing,
Wrenched it, inch and ell and all, slowly from the King.

So they bought us freedom, not at little cost,
Wherefore must we watch the King, lest our gain be lost.

One of the rights our fathers bought for us at great price was the right to earn our living in the sweat of our faces without leave of any man or group of men. Shall we throw this precious right away tonight by voting for compulsory unionism in the postal service of the United States? Shall we say to the citizens of the United States, "You cannot work for your Government unless you join a union, pay dues, and take orders from it?"

If Senators have any doubt in their minds about the despotic powers which unions have over their members, I suggest they read the decision, the split decision, the 5–to–4 decision, of the U.S. Supreme Court in the case of *National Labor Relations Board* v. *Allis Chalmers Manufacturing Company*, 388 U.S. 175. That case holds, in effect, that the member of a union does not have the right to make up his own mind or decide his own course of action in respect to matters connected with his employment. He has to take orders from the union, even though he believes the orders to be inadvisable, unwarranted, and unjust. Under this decision, a union member can be fined by a union if he disobeys the orders of the union.

The Supreme Court held in that 5-to-4 decision that the union has that power over a member notwithstanding the fact that Congress, in section 7 of the Taft-Hartley Act declared in as plain words as can be found in the English language, that an employee is free to refrain from participating in concerted union activities. What the proposal for compulsory unionism means is this: That the 750,000 Americans who now earn their living in the postal service must take orders from unions even though they do not wish to join them. What are they to do when it comes to the choice between taking orders from the postal service and taking orders from the union in cases of conflict between the union and the postal service? Must they choose between being discharged by the postal service or fined by the union.

Mr. President, when I have to make a choice between tyranny—whether it is tyranny on the part of the Government, tyranny on the part of the unions, tyranny on the part of big business, or tyranny on the part of powerful political organizations—and freedom, I take my stand with freedom.

I close with this observation: Right-to-work laws enforce, and union shop agreements nullify, the ancient right which Kipling calls, "Leave to live by no man's leave." One does not "live by no man's leave" if he is compelled to pay a labor union for leave to earn his livelihood in the sweat of his own face. The provisions of the bill authorizing compulsory unionism propose for the first time in the history of our country that Federal employees be denied "leave to live by no man's leave."

The PRESIDING OFFICER. If there be no further discussion, the question is on agreeing to the amendment of the Senator from Arizona.

Mr. FANNIN. Mr. President, I ask uanimous consent that the names of the Senator from Virginia (Mr. BYRD), the Senator from Wyoming (Mr. HANSEN), the Senator from Texas (Mr. TOWER), and the Senator from Florida (Mr. GURNEY) be added as cosponsors of the amendment.

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

LABOR UNIONS HAVE BROUGHT BENEFITS TO WORKERS

Mr. RANDOLPH. Mr. President, we have had pictured tonight, as we come to the close of this debate, the feeling on the part of one or more Members who have entered into the discussion that programs of unionism or of union shop have brought, in a sense, considerable damage to the men and women who toil in this country.

Just the opposite is true. Had we not had collective bargaining in the United States of America in the true sense—and I remind my colleague from North Carolina (Mr. ERVIN) that we do not have true collective bargaining at the present time in the Federal service—we would never have brought into being the benefits of unionism which have been shared by those who are nonunion members.

Millions and millions of workers in this country have obtained equitable wages; improved working conditions and

job security because there were those who were active in the union movement and worked diligently, sometimes against terrific odds, to bring about benefits for all working people. Through collective bargaining and through programs of negotiations they have achieved benefits which would have been denied or long postponed. Federal employee unions have exercised an important role in this endeavor.

Yes, Mr. President, I think it is wrong to say that unionism has been a weapon of despotism in this country.

Mr. ERVIN. Mr. President, I assume the Senator from West Virginia heard my speech. I said nothing adverse concerning unionism. What I said related to compulsory unionism.

Mr. RANDOLPH. I recall, I believe, that the Senator spoke about the tyranny of unions. I listened very carefully. I have respect and admiration for my colleague from North Carolina, but we disagree very much on this issue.

I think it would be important for us, although it is a part of the report on postal reorganization, to have printed at this point in the RECORD the explanation of the right-to-work issue by the Committee on Post Office and Civil Service.

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

THE RIGHT-TO-WORK ISSUE

The committee recognizes and appreciates the problems involved in enacting a collective bargaining system with teeth in it for postal employees. Except in the Tennessee Valley Authority and one or two other small Federal operations, true collective bargaining has never existed in the Federal service. For management to bargain with 750,000 postal employees on an individual basis is utterly impossible. Thus, from the viewpoint of both postal management, postal unions, and the best interest of the general public, the committee recommends that the chosen representatives of postal employees be the bargaining agent on wages and working conditions. This is a system and a right established by Federal law in the National Labor Relations Act applicable to all other significant craft and industrial employment in the United States. Except that Federal employees shall continue to be prohibited from striking, the general system of collective bargaining as it exists in the private sector of the economy, under Federal law, shall be applicable to the postal service.

Section 14(b) of the Taft-Hartley Act, retaining the right of a State government to enact legislation against a union shop, is preserved.

If State law prohibits the union shop, no provision of this bill may be construed to authorize a union shop in that State. The bill provides that a union shop for postal employees can be authorized only as a result of collective bargaining in States whose laws allow it.

Mr. RANDOLPH. Mr. President, I trust that Members of the Senate will remember that the "right-to-work" laws in the 19 States which have such laws will not be set aside by the union shop bargaining authorized in this bill. In a real sense, however, we will be giving to the 750,000 employees of the Postal Service the opportunity for true collective bargaining. At the same time, they will be denied the right to strike—a right which exists in the private sector. In my mind this is all the more reason to maintain the right to negotiate a union shop—an effective tool in collective bargaining.

It is my firm conviction that the postal employees who are being transferred to the new Postal Service should have this important instrument to aid them in future negotiations. I trust that the Senate shares this conviction and will act accordingly.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona (putting the question).

The "nays" seem to have it. The "nays" have it. The amendment is rejected.

The bill is open to further amendment.

Mr. DOLE. Mr. President, I send an amendment to the desk, and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk proceeded to read the amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendments will be considered en bloc.

The amendments are as follows:

Add a new title III at the end of the bill as follows:

"TITLE III—RATE ADJUSTMENT

"AUTHORIZATION TO POSTMASTER GENERAL

"SEC. 301. The Postmaster General is authorized to adjust the postage rates and charges in sections 4253, 4303(a)-(d)(1), 4422, 4452, and 4554 of title 39, United States Code, by increasing them by not more than 33⅓ percent, and the postage rates and charges in section 4359 of title 39, United States Code by increasing them by not more than 50 percent. The postage adjustments made by the Postmaster General under this section shall become effective on the dates fixed by him.

"EFFECTIVE DATE

"SEC. 302. The provisions of this title shall become effective upon enactment of this Act."

Mr. DOLE. Mr. President, this is the same amendment that was discussed earlier. It was offered as an amendment to the substitute offered by the Senator from Tennessee (Mr. BAKER).

At that time I pointed out very briefly that we do face an operating deficit of $2.5 billion in 1971.

This amendment, as explained earlier, would give the Postmaster General standby authority to raise certain prescribed rates during the transition period.

I explained the amendment fully at that time. The hour is late. The amendment has been reviewed by the chairman and by the ranking minority member.

I have counseled with both of those gentlemen with reference to the amendment. They are both opposed to it, hence I rest my case.

Mr. HANSEN. Mr. President will the Senator yield?

Mr. DOLE. I yield to the Senator from Wyoming.

Mr. HANSEN. I know we are all concerned with the continuing battle to try to halt inflation in this country. So far we have not made too many gains in trying to combat inflation, but I think the amendment of the Senator from Kansas has much merit.

The amendment proposes to make available increases in rates between the time that the bill is enacted and the time when the postal corporation can start operations. That will permit the postal authorities in the interim period to raise a significant amount of money that can make an important contribution toward a balanced budget.

Because I think that is important to all of us, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. McGEE. Mr. President, the committee's position is the same as on the earlier occasion. We oppose adding provision for rates themselves at the end of the bill, inasmuch as we have been working very closely downtown with the understanding that they did not want the rate bill intertwined with the postal reorganization bill; and for that reason the committee opposes the amendment.

The PRESIDING OFFICER. Does the Senator from Wyoming yield back his time?

Mr. McGEE. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Kansas yield back his time?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. All time on the amendment has been yielded back. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas (Mr. DOLE). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. McCARTHY), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

On this vote, the Senator from Illinois (Mr. PERCY) is paired with the Senator from South Dakota (Mr. MUNDT). If present and voting, the Senator from Illinois would vote "yea," and the Senator from South Dakota would vote "nay."

The result was announced—yeas 29, nays 60, as follows:

[No. 204 Leg.]

YEAS—29

Allott	Griffin	Saxbe
Baker	Hansen	Schweiker
Bellmon	Hatfield	Scott
Bennett	Hruska	Smith, Maine
Brooke	Javits	Smith, Ill.
Cook	Jordan, Idaho	Thurmond
Cotton	Mathias	Tower
Curtis	Murphy	Williams, Del.
Dole	Packwood	Young, N. Dak.
Dominick	Pearson	

NAYS—60

Aiken	Goodell	Miller
Allen	Gore	Mondale
Bayh	Gravel	Montoya
Bible	Gurney	Moss
Boggs	Harris	Muskie
Burdick	Hart	Pastore
Byrd, Va.	Hartke	Pell
Byrd, W. Va.	Hollings	Prouty
Cannon	Hughes	Proxmire
Case	Jackson	Randolph
Church	Jordan, N.C.	Ribicoff
Cooper	Kennedy	Sparkman
Cranston	Long	Spong
Eagleton	Magnuson	Stennis
Eastland	Mansfield	Stevens
Ellender	McClellan	Symington
Ervin	McGee	Talmadge
Fannin	McGovern	Tydings
Fong	McIntyre	Williams, N.J.
Fulbright	Metcalf	Yarborough

NOT VOTING—11

Anderson	Inouye	Percy
Dodd	McCarthy	Russell
Goldwater	Mundt	Young, Ohio
Holland	Nelson	

So Mr. DOLE's amendment was rejected.

AMENDMENT NO. 742

Mr. HARTKE. Mr. President, I call up amendment No. 742 and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from Indiana will be stated.

The bill clerk proceeded to read the amendment.

Mr. HARTKE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 162, line 9, strike out "Subject to subsection (c) of this section" and insert in lieu thereof "Except as otherwise provided in subsections (c) and (d)(1) of this section".

On page 162, beginning with line 25, strike out through line 8 on page 163 and insert in lieu thereof the following:

"(d)(1) Notwithstanding any other provision of this title or any provision of a collective bargaining agreement entered into under chapter 13 of this title, the provisions of title 5 relating to a preference eligible (as that term is defined under section 2108 (3) of title 5) shall apply to (A) an applicant for appointment in the Postal Service in the same manner and under the same conditions as an applicant for appointment to a position in the competitive service under title 5, and (B) to an employee of the Postal Service in the same manner and under the same conditions as if the employee were in the competitive service and subject to the provisions of title 5. Without compromising its basic mission, the Postal Service shall pursue an employment policy designed to extend opportunity to the disadvantaged and the handicapped."

Mr. HARTKE. Mr. President, I ask unanimous consent that the name of the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of this amendment.

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

Does the Senator ask unanimous consent that the amendments be considered en bloc?

Mr. HARTKE. I ask unanimous consent that the amendments be considered en bloc.

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

Mr. HARTKE. Mr. President, as I have said in my supplemental views which accompanied this bill to the floor, I am in accord with the principles of postal reform. The Senate bill is a good one and I believe it will go a long way toward accomplishing its purpose, providing an effective framework for a modernized, greatly improved U.S. postal system.

I am concerned, however, that in our haste to report a bill for expeditious consideration, the committee might not have made clear its intent with regard to the position of veterans in the postal service. That is the purpose of my amendment today—to make crystal clear my own position in this regard, and to clarify and maintain all of those rights which veterans presently enjoy under existing law.

Under existing law, a veteran of the military service has certain rights in the postal service in the matter of employment and reemployment on returning from the military service. The veteran has the rights of appeal in adverse actions and the releasing of employees when reductions in the work force occur. These rights, guaranteed by the Veterans Preference Act of 1944, are the same rights enjoyed by veterans in any other branch of the competitive civil service.

The language of S. 3842, as reported, is particularly vague with regard to veterans preference. It is deficient, defective, and subject to misunderstanding. In one section of the bill the Post Office Department recommends modification of veterans preference by saying that retention of preference will be subject to collective bargaining, or to modification by the Department with approval of the Civil Service Commission. In another section of the bill, section 1101(d), it states that "those provisions of title 5 which were formerly known as the Veterans Preference Act shall apply to the Postal Service."

We owe it to ourselves and to the men and women who have served in the Armed Forces of our country to make ourselves as clear as possible with regard to their employment rights in the Postal Service. That is why I have offered this amendment, and I am hopeful that my colleagues will join with me in approving it.

I have discussed this matter with the manager of the bill; and in order to expedite the measure tonight, I will refrain from any further comments at this time.

Mr. McGEE. Mr. President, the Senator from Indiana has persuaded the members of the committee that this would be an adequate clarifying amendment on the intent of the committee, and the committee finds no objection to it.

Mr. HARTKE. Mr. President, I yield back the remainder of my time.

Mr. McGEE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana.

The amendment was agreed to.

AMENDMENT NO. 749

Mr. ERVIN. Mr. President, I call up my amendment No. 749.

The PRESIDING OFFICER. The amendment offered by the Senator from North Carolina will be stated.

The bill clerk proceeded to read the amendment.

Mr. ERVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with. I shall explain the amendment, and I assure the Senate that I will not take more than 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

On page 168, line 11, insert a period after the word "employment" and strike out everything beginning with the word "if" on line 11 and ending with the word "employment" on line 17.

The language proposed to be stricken is as follows:

If such individual pays to the Treasurer of the United States a sum equal to the initiation fees, dues, and assessments uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the individual unless the individual and labor organization mutually agree upon some other condition of employment.

Mr. ERVIN. Mr. President, this is an amendment to amend subsection (d) on page 168. This section provides, in substance, that no individual who is a member of a religious sect or division thereof, the established and traditional tenets or teachings of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment if he pays the equivalent of the union initiation fees and dues into the Treasury of the United States.

As I see this, when a man pays something into the Treasury of the United States, he is paying a tax, and this is taxing a man on his religion; and I do not think it has any place in this bill.

I ask the Senate to support this amendment by a voice vote.

Mr. McGEE. Mr. President, may I say, in response to the Senator from North Carolina, that the committee weighed this amendment very carefully, with all its implications, and the religious group affected very much wanted this amendment. The committee respected the religious aspect of the question, and it was consistent with their request. All groups concerned agreed that this was one that they could take.

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

Mr. McGEE. I yield.

Mr. FONG. Was not this provision in the bill drafted by the religious group?

Mr. McGEE. It was drafted by the group itself; yes.

Mr. ERVIN. After all, it is a tax on

their religion; and even if they are willing to do it, I do not think the Senate of the United States should be willing to so vote.

Mr. McGEE. Is the Senator willing to have a voice vote on this?

Mr. ERVIN. Yes.

Mr. McGEE. I yield back the remainder of my time.

Mr. ERVIN. I yield back the remainder of my time.

Mr. McGEE. The committee's position is "no" on the amendment.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was rejected.

Mr. BURDICK. Mr. President, as I participated in the development of S. 3842, I was concerned about the impact of rate adjustments on small local publishers throughout the country. I speak here of within-county newspapers, religious and fraternal nonprofit mailings, books, educational materials, classroom publications, agricultural magazines, and labor mailings.

I was pleased that the committee in its report recognized that the upsetting of long-standing mail preferences established by law would work great hardships if the transition was too drastic. I appreciate the fact that a 10-year stretchout period is recommended for adjustment in preferred rate publications. If we are not careful this too could be ruinous and cause many of our fine State and local publications to go out of business.

I recall many years ago when there was much discussion concerning the dropping of free-in-county mail. It was reported that the actual cost of this type of mail was $13.6 million per year. At the same time, the foregone revenue under this system only amounted to $800,000. Of course, in the interim, free-in-county has been modified and public services have been expanded to include total loss on these and other type publications. This lessened the impact on local newspapers and similar publications.

For example, as recently as 1968 the Department's cost ascertainment report reflected a 100-percent recovery of adjusted costs for within-county publications. These adjustments, of course, included application of public service costs.

It seems to me that section 102 public service cost to maintain "effective and regular postal service to rural areas, communities and small towns where post offices are not self-sustaining, and to prevent either reduction in service or unreasonable increases in postal rates," is a continued recognition of the great public service value of these extensions of our U.S. Postal Service and for which appropriations are authorized.

This would seem to me to provide a more equitable transition for adjustments in rates to the local, free, and preferred types of mail. My interpretation does not mean that rates will not be increased; my interpretation rather has to do with public service cost allowances which might well be credited by a Postal Rate Commission as it sets about determining its new schedule of rates. This will lessen the impact.

I need not remind the Congress that much of our local and rural mail was built on "free-in-county," "rural free delivery," and "low preferred rates" at the community level. The sudden dropping of these provisions might create great hardships except for possible public service discounts as we give full effect and force to S. 3842.

I am greatly concerned about this impact when I note the wide gap between revenues of 0.3 cent and combined cost of 4.7 cents on newspapers, other than dailies, contained in the Department's 1969 revenue and cost analysis. This would call for a 1,600-percent increase barely to break even, if required to recover the institutional cost, and would spell ruin for many local publications even stretched out over a period of 10 years.

This and other increases ranging from 500 percent to 1,600 percent would work great hardship. Of course, these percentages have been developed without giving full credit to existing public service requirements.

I would hope that the application of public service costs, as reflected in section 102, would serve to reduce this hardship and that we might achieve for our local publishers a fair and equitable rate structure under the new law.

Finally, I make this plea and trust that I am correct in my views for the many free and preferred rate publications we have encouraged since the beginning of our U.S. postal system. Let us not impair the great and valuable service of our newspaper, educational, agricultural, labor, and the many local nonprofit religious and fraternal information services.

The Congress need not be reminded of its many concessions over the years. I recall that in 1967 we made a concession to small business on third-class mail by establishing a lower minimum charge per piece on the first 250,000 pieces mailed during a year. I would hope some thought would be given in the public interest to granting a similar preference to publications, for example, on the first 300,000 copies per edition in order to protect and encourage small business publishers.

I appreciate these are only suggestions, but if my concern is shared by others then my statement will not have been in vain.

Mr. BOGGS. Mr. President, I support S. 3842, the Postal Reorganization Act, as reported by the Committee on Post Office and Civil Service. It is my belief that this legislation will help provide a sound basis for an efficient postal service based on modern management techniques and equipment.

As a member of the Senate Post Office and Civil Service Committee, I wish to commend the chairman, the distinguished Senator from Wyoming (Mr. McGEE) and the ranking minority member, the distinguished Senator from Hawaii (Mr. FONG) for their outstanding leadership and painstaking work in the development and formulation of this legislation. I am sure we all appreciate their great efforts and the job they have done.

This legislation provides for sweeping reforms for one of our most important public services and cabinet departments. This reorganization, when enacted, will be a milestone in updating, streamlining, and making more effective and responsive the postal service.

Under this legislation the operations of the new Postal Service will be overseen by a Board of Governors appointed by the President, with the advice and consent of the Senate. The Postmaster General and his deputy, both appointed by the nine Board members, also occupy positions on this body, as do four nonvoting Members of Congress.

This Board of Governors parallels the board of directors concept prevalent in private industry. The Postmaster General, appointed by the Governors and responsible only to them, would administer the Department. He would no longer be identified as a political appointee and member of the President's cabinet.

If the Postal Service is to operate in a manner comparable to private enterprise, then incentives to encourage employees in the performance of their duties must be an integral part of the system. The new system calls for promotion within the Department rather than allowing stagnation in one position over the years. It provides for more rapid advancement, and pay that is comparable to that earned for similar tasks in the private sector.

In addition to receiving the 8 percent salary increase agreed upon in the recent negotiations, postal employees would have an opportunity to participate in collective bargaining for increased wages and benefits. This, too, parallels the system of private enterprise.

While corporations seek to make a profit, the Postal Service would be required to move toward equalizing its costs with the incoming revenues. Such a requirement is phased over the first 10 years of operation and would eventually remove the necessity for the annual congressional appropriation that has become habit in the present deficit-ridden Department. Such a provision would encourage economy, while seeking efficiency—a concept basic to private enterprise.

The revenues would be raised by the adjustment of postal rates, a determination that would be made by an independent, five-member panel of cost experts, acting on the request and justification of the Postmaster General. Consequently, ratemaking would no longer be the responsibility of the Congress.

Other provisions of this detailed legislation would have the effect of removing restrictions and requirements on the Post Office Department that have served to hinder, more than help, in the quick delivery of mail. They, too, have received the careful consideration of the members of the committee.

This bill, and the one passed by the House of Representatives, I am certain, can be combined in conference into a most effective vehicle for postal reorganization.

This proposal has received widespread publicity and has been thoroughly re-

viewed by many of our fellow citizens. Public concern certainly has been indicated to me by the great amount of mail on the subject.

As a member of the Post Office and Civil Service Committee, I can attest to the fact that the bill is the product of many long hours of careful study and deliberation. It is culled from many proposals for revamping the present system.

Most importantly, it is the result of consultation with many diverse interests involved in postal operations today. To my knowledge, all those interested have had the opportunity to express their opinions on the various facets of this legislation. I believe S. 3842 responds to the public cry for reform and is a carefully reasoned approach to a problem that has attracted many ideas and theories. It incorporates the best features of many studies.

Overhaul of such a large operation is not easy and will not be accomplished overnight. The bill before us has established a framework. The members of the committee have done their best to provide postal reorganization that can be facilitated with the least confusion.

To predict that this bill has fully anticipated all problem that will arise in the new Postal System would not be possible. But such refinements can be made as trial uncovers possible error or omission.

So it is my hope that Senators will see fit to enact this legislation of monumental importance to every American. We have the opportunity now to provide the improved service that the American people need and want.

Mr. JAVITS. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment offered by the Senator from New York will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Beginning on page 280, line 22, strike all through page 281, line 4, and substitute the following:

"COMPENSATION CHANGES

"SEC. 8. (a) The Postmaster General, under regulations made by him, shall increase the rates of basic compensation and basic pay of employees of the Post Office Department so that such rates will equal, as nearly as practicable, 108 per centum of the rates of basic compensation and basic pay in effect immediately prior to the date of enactment of this Act. Such increases shall take effect on the first day of the first pay period which begins on or after April 16, 1970. This section does not apply to employees in positions in the Executive Schedule.

"(b) Retroactive pay, compensation, or salary shall be paid by reason of this Act only in the case of an individual in the service of the United States (including service in the Armed Forces of the United States) on the date of enactment of this Act, except that such retroactive pay, compensation, or salary shall be paid—

"(1) to an officer or employee who retired, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act, for services rendered during such period; and

"(2) in accordance with subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after April 16, 1970, and ending on the date of enactment of this Act, by an officer or employee who died during such period.

Such retroactive pay, compensation, or salary shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased officer or employee.

"(c) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the United States Government.

"(d) For purposes of determining the amount of insurance for which an individual is eligible under chapter 87 of title 5, United States Code, relating to group life insurance for Government employees, all changes in rates of pay, compensation, and salary which result from the enactment of this section shall be held and considered to become effective as of the date of such enactment."

Mr. JAVITS. Mr. President, I will conclude the debate on this amendment for myself in 5 minutes; but before I do so, I yield myself 10 minutes and yield to the Senator from Iowa, who wishes to engage in a colloquy.

Mr. MILLER. I thank the Senator from New York.

Mr. President, I should like to ask the Senator from Wyoming, the manager of the bill, for clarification as a matter of legislative history, as to the meaning of the phrase on lines 16 and 17 on page 232 of the bill—namely:

Except under authority of a search warrant authorized by law, or by an officer or employee of the Postal Service for the sole purpose of determining an address at which a letter or parcel can be delivered, or pursuant to the authorization of the addressee.

Mr. McGEE. That is the intent of the bill. The Senator is correct.

Mr. MILLER. So that, for example, if a search warrant is properly obtained under the law, in the course of an investigation relating to espionage, the law enforcement officials concerned would be authorized to open a letter sealed against inspection.

Mr. McGEE. Yes, that is correct. That is the intention of the bill.

Mr. MILLER. I thank the Senator from Wyoming, and I thank the Senator from New York.

Mr. WILLIAMS of New Jersey. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. WILLIAMS of New Jersey. I want to inquire briefly about the situation that acting postmasters face under the bill.

As I understand it, the President is divested of the nominating authority and the Senate is divested of the confirming authority. As I understand it, also, the Postmaster General is required, under the proposed legislation, to appoint postmasters. He is given the authority, and he will appoint on a competitive basis. I wonder what the situation would be, if the Senator could say, with regard to the acting postmasters.

Mr. McGEE. The chairman's reply is that, as it stands now, if he has his experience status he is, indeed, eligible, but more than that because we have a new administration of one party and a Congress of another party, both sides have held in abeyance precipitate action on postmasters. That is why there are over 4,000 acting postmasterships right now, because of the eligibility of one of those who becomes available for a permanent appointment, which the new process envisages in the new reorganization, in taking this out of politics, as the Senate enacted it earlier on this occasion.

Mr. WILLIAMS of New Jersey. I commend the Senator from Wyoming for a masterly presentation of the bill here. It has been a long journey for him.

Mr. McGEE. I thank the Senator from New Jersey.

Mr. JAVITS. Mr. President, the amendment I have proposed takes the provision of the House bill with respect to retroactivity and puts it in the Senate bill.

The retroactivity is limited to April 16 of this year. That is what my amendment expresses. It is limited to the 8-percent increase which is in the Senate bill. The only difference between this amendment and the Senate bill, as it is, is that of retroactivity, back to April 16.

The equity involved is the following: It is stoutly maintained on the part of those who negotiated the administration's postal act agreement that this retroactivity was assured. It is a fact. Everyone knows it. Even the editorials in the most economy-minded newspapers in the country reflect that the country was shocked to discover how far behind the parade were the postal workers, how their marvelous discipline, their devotion to duty, and their no-strike obedience for so long kept them far behind other workers. As I say, the conservative press and the liberal press alike were unanimous about that.

One of the ways they were expected to make up for this was that it was really owed to them out of equity, because it was only Congress that could do justice to the postal workers. At that time it will, happily, be over, and this will be a business corporation dealing with organized workers, as it should, in the sense of labor negotiations.

But this, it seems to me, is an elementary question of justice. I am rather surprised that it was left out of the Senate bill, but it was left out. Of course, it is true it took hazards in the negotiations which it seems to me were a little rough on the postal workers concerned, especially as this is not a matter of padding good wages or making a good settlement, but is something which many have admittedly agreed is a bad wage situation for postal workers.

The amount is $110 million. I will not pretend it is less. It may be noted by my colleagues that I voted for the last amendment because I believe in paying our bills. I have voted for tax increases and will do so again if we have to. Indeed, I think we need one right now, as a practical matter.

But justice should be done to the postal

workers. The House did, and I think that the Senate should.

If the substitute had gone through, we would have settled, but it did not go through, so I think we should do this elementary thing.

Mr. GOODELL. Mr. President, I shall be brief. This is a situation of desperate proportions. We are on the brink of further eruptions and further strikes. I do not state that as a threat. I state it as a fact. A great many postal workers who have been left out for so long have reached a point in frustration where they are no longer controllable. We do not want to see that happen. It may happen in the next week or so.

I am fearful that if we pass this over to a conference, there will be no assurance to these people, and their leaders will not be able to go back and say to them, "We are getting something out of the conference," because it will still be all up in the air.

It is very important that the Senate tonight go on record that it will do justice to the postal workers, that the Senate will not go to a conference to bargain on justice for the postal workers, that they have a perfect right to this retroactivity. It has been bargained for with the administration, and the Senate should fulfill that bargain right here, tonight.

I know that it will help a great deal to cool off the situation if the Senate does that.

Mr. HANSEN. Mr. President, I rise to support the amendment. I do so not because of my awareness of the imminency of any further strike activity, or trouble from the postal employees but, rather, because I think simple justice demands that we recognize they are a forgotten group of people.

We have talked about postal reform and revision of rates and all sorts of things for many months now, and all during these times this group of people, more than any other group, has been neglected and almost forgotten.

As a matter of fact, as a member of the Finance Committee, I became aware of the fact that under some other proposals that had been presented in the welfare reform bill, welfare recipients would receive more money than the postal employees are today earning.

I am going to support the amendment because I think that simple justice, fairness, and equity demands it.

Mr. JAVITS. I thank my colleague from Wyoming.

Mr. MURPHY. Mr. President, I am most pleased that the Senator from New York has seen fit at this late date to bring up this matter and bring the amendment to the attention of the Senate.

As has been stated by my colleague, no injustice has been greater than that given in the treatment of our postal workers.

I get as much mail as any Member of this body. The reflection of that mail is the reflection of a group of people who have been patient, loyal, and hard working. At long last, I think the time has come when we should guarantee justice to them.

I intend to support the Senator's amendment.

Mr. McGEE. Mr. President, I want to remind my colleagues that this Senator has rather acceptable credentials in concerning himself with the relevant pay level of all Federal employees, including the postal service, and that one of the questions at stake here is that after the 6 percent retroactive pay was agreed to and negotiated successfully, then, as a condition of the new postal reorganization negotiations, an 8 percent additional pay raise was added in that package. But one of the conditions was that it would become operable the day the President signed the bill. That was knowingly signed by all parties—when the President signed the bill.

All of us realize, and we have talked to the postal union fellows at great length about this, that no one knew Cambodia was coming along. No one anticipated the delays we have been through. We all recognize in this measure that equity requires some adjustments all along the line.

In the request, certainly, we now, in the light of the negotiations, should be permitted to take the Senate measure into conference with the understanding that there is needed the latitude to work out with the President, with the postals, and with the House an equitable date. The date was arbitrarily selected at April 18 because of the events of that moment. It is not a sacred date. It simply pins down the importance of equity in this matter. I can assure the Senator that the Senate committee will go into conference with that very much on its mind, but we believe it would be the better part of wisdom if we could go there with our present measure in order to cope with this matter in negotiations with the House.

When our time is up, so that it does not detract from the time available, in the light of our discussion—and the Senator from New York and I have discussed this in advance—I will move to table the amendment.

Mr. FONG. Mr. President, I associate myself with the remarks of the very distinguished Senator from Wyoming. This Senator has not been negligent in seeing that our Government employees receive comparable wages.

Since I have been on the committee, for the past 10 years, we have given Government employees approximately a 50-percent increase in wages.

Here we have an agreement which was signed by officials of the U.S. Post Office Department, the AFL–CIO and its postal affiliates, the National Association of Letter Carriers, AFL–CIO, National Association of Post Office and General Service Maintenance Employees, AFL–CIO, National Association of Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders—affiliated with Laborers' International Union—AFL–CIO, National Association of Special Delivery Messengers, AFL–CIO, National Federation of Post Office Motor Vehicle Employees, AFL–CIO, National Rural Letter Carriers Association, and United Federation of Postal Clerks, AFL–CIO.

One of the provisions of the memorandum of agreement is the proposed postal pay increase—8 percent pay for employees of the Post Office Department effective as of the date this enabling legislation becomes law.

In my hand is the position paper issued by the administration, a position paper on retroactive pay, as follows:

The agreements of April 2 and April 16, 1970, between the Post Office Department and the seven postal unions that have the exclusive right to represent the Department's rank and file employees on a national basis, are the product of the first real collective bargaining that has ever occurred in the Postal Service.

In consonance with those agreements, the reform legislation that is soon to be enacted will leave to the collective bargaining process decisions on wages, hours and other terms of employment that heretofore have been determined through the legislative process.

One of the key provisions in the April agreements was the pledge of the postal unions and the Post Office Department to support an 8 percent wage increase (over and above the retroactive 6 percent pay increase that has now become an accomplished fact), such 8 percent increase *to become effective as of the date when the reorganization legislation becomes law.*

The effective date of the 8 percent increase was a central element in the negotiations. To make the increase retroactive, contrary to the understanding reached in the negotiations, would be to weaken the collective bargaining process at the very outset of its history in the Postal Service. Collective bargaining simply cannot work if the agreements that result from such bargaining are not honored, and if the parties are not prepared to assume that the final decisions will be made at the bargaining table, rather than in some other forum.

The cost of the 8 percent pay increase is approximately one and one-half million dollars per day. If the 8 percent pay increase were made retroactive to a date three months prior to enactment of the legislation, the retroactivity feature would cost $135 million.

Mr. HANSEN. Mr. President, will the distinguished Senator yield?

Mr. FONG. I yield.

Mr. HANSEN. Mr. President, I know it bothers the distinguished Senator from Hawaii that postal employees are not receiving as much remuneration for their services as welfare recipients are receiving. Is that not true?

Mr. FONG. Mr. President, that is true but we also have the principle of comparability in our pay schedules.

Mr. HANSEN. Mr. President, how does the postal worker compare with the welfare recipient?

Mr. FONG. I do not know. But I do know that we have the principle of comparability in the pay scale and have had it since 1962. We have had expert advice from the Government, and from the people who gather the statistics and formulate the pay schedules. According to the statistics Federal employees do receive comparable wages to those in private industry.

Mr. HANSEN. Mr. President, does the distinguished Senator from Hawaii recognize that there is deep unrest and dissatisfaction among welfare recipients concerning what they receive, and might it not be fair to assume that there could be some dissatisfaction among postal employees if they received under the postal reform bill not as much as the welfare recipients?

Mr. FONG. Mr. President, I do understand that the postal employees are not satisfied with the 6-percent increase. And they negotiated for the 8-percent in-

crease. That pay raise was agreed to with the understanding that it would be effective at the time of the enactment of the legislation.

That was the agreement entered into by the Post Office Department and the bargaining units of the union postal.

We are now being asked to change it—to make it retroactive to a date prior to enactment.

I have a memorandum issued by the Post Office Department on retroactive pay. It is entitled, "Position Paper on Retroactive Pay."

Mr. HANSEN. Mr. President, does this memorandum propose to speak for the postal employees, or is it an agreement entered into between some of their leaders?

Mr. FONG. Mr. President, this is the position of the administration, which was one of the bargaining parties. The Post Office Department on the one hand, which represented the administration, was bargaining with the seven AFL-CIO postal unions.

The cost of the 8-percent increase is approximately $1.5 million a day. If the 8-percent pay increase were made retroactive to 3 months prior to the enactment of the legislation, the retroactivity feature would cost $135 million.

This is not an insignificant amount of money. But far more important than the money is the principle that both parties to a collective bargaining agreement should be bound by its terms. To destroy the regular collective bargaining process in the very legislation establishing a collective bargaining system would virtually guarantee the failure of the new system.

This is the position of the administration. The committee has worked on this question. We considered the question of retroactivity. We felt as the position paper states. So, we concurred, and in the bill before us, did not include a retroactive feature.

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

Mr. FONG. I yield.

Mr. MILLER. Mr. President, what is the date of the agreement?

Mr. FONG. April 2 and April 16, 1970.

Mr. MILLER. Mr. President, would it not be fair to say that at the time this agreement was entered into, the intention of the parties was to go forward to enactment of this legislation at a very early date, certainly not in the middle of the summer?

Mr. FONG. Any person who is familiar with the legislative process knows that an agreement entered into on April 16, 1970 could not be enacted the next day. Anyone who is familiar with this process knows that it takes 2 to 3 months after a bill is introduced before it can pass two Houses and be signed by the President.

This agreement was entered into April 2 and April 16, 1970. That is only a few months ago.

Mr. MILLER. Mr. President, might I say that we are all familiar with the fact that it may take 2 to 3 months for some important legislation to go through Congress. We are also familiar with the fact that Congress has, under emergency conditions, enacted important legislation within a matter of 48 hours and it seems to me that this was an agreement reached under emergency conditions and certainly it was so thought of by the unions and the postal employees.

Mr. FONG. The parties knew that a reform bill was going to be enacted. Anyone who knows anything about this reform measure and the amount of work involved in it knows it is not a measure that could be dealt with in a week or two. It has been shown by the debate here how complex the bill is.

I presumed, and I will say that the parties expected, it would take 2 or 3 months before we could enact such a bill.

Mr. MILLER. Mr. President, I commend the Senator from Hawaii for his very responsive and frank answers. But I suggest the Senator from Wyoming indicated that the committee recognizes there is a problem of equity here. What he is asking for is leeway to negotiate with the House.

Mr. FONG. Yes. I respond to the Senator from Iowa by saying I do follow the leadership of my chairman; that we do have in mind some negotiations along this line; and that is why we do not want to be tied down to a date certain. We will want sufficient flexibility to move.

Mr. MILLER. The Senator is saying that, while he regards the Javits amendment as being unduly early in retroactivity, he recognizes that there is an equitable argument arising over the delay that occurred in this legislation and that some adjustment should be made to reflect what was unforeseen by the parties at the time of the agreement.

Mr. FONG. Yes. I read this memorandum only to show colleagues the thinking of the administration.

I would like to say I do agree with my chairman that probably there is some equity for us to consider and we would like to go into conference without having our hands tied so that we can move and have a little flexibility. That is what we are asking.

Mr. MILLER. I thank the Senator.

Mr. MURPHY. Mr. President, will the Senator yield for a question?

Mr. FONG. I yield.

Mr. MURPHY. Mr. President, there is no question but what the distinguished Senator from Hawaii has full understanding in this matter. We have learned now about negotiations between the unions and the Federal Government, and the plans for reorganization. As so often happens, the individuals, the rank and file workers—and I know something about this because I think I have been a member of a union longer than anybody else in this Chamber—get lost some place along the line.

I think all the Senator from New York wants to do by this amendment is not tie the hands of the negotiators or impair their ability to reach a bargain in any way, but merely to say to these people who have been treated with inequity and who have been patient, that we in this Chamber feel they should be treated fairly in this matter; that it should be made retroactive.

Mr. President, I want to join the Senator from New York in support of this measure, and I hope my colleague from Hawaii understands this in no way is a statement of dissatisfaction with the committee or its operation, or any feeling of its inability to negotiate properly.

I think it is something we should have the right to express here in the Chamber tonight. I think the Senator brought it up at a proper time.

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

Mr. FONG. I yield.

Mr. GRIFFIN. Mr. President, I commend the Senator for a very statesmanlike argument presented here this evening. He has been one of the stalwart defenders of postal workers and Government workers, and over the years he has fought hard to get them the many increases they have gotten in the past. It is not an easy position he takes, along with the chairman, but it is a courageous and a right position.

I think many persons are surprised that we are going to achieve postal reform legislation; it looks as if it might happen. At the time of that agreement, it was very doubtful we would ever be able to say we were going to have postal reform at all. These employees are going to get 8 percent more in terms of pay raises than other Federal employees—and in some categories their pay is as inadequate as postal workers—but they are getting it as a result of bargaining and negotiations.

I think we have to make a basic decision tonight. Is collective bargaining in the new postal service going to be meaningful and work, or not? If every time the employees are dissatisfied they are going to run to Congress and ask us to overturn a negotiated agreement, we are getting off on a very bad footing, as the Senator stated.

Mr. President, I think the chairman and the ranking Republican member deserves support in their position.

Mr. FONG. Mr. President, I thank the distinguished Senator from Michigan for his remarks. We have labored over the bill and we have labored over the question of retroactivity of pay. We know that this is the first time the Federal Government has engaged in the collective bargaining process and we felt there was sanctity to this collective bargaining agreement.

If we were to overrule the collective bargaining agreement we would find ourselves in grave trouble hereafter because every time there was an agreement there would be attempts to have the Congress change it. The House has changed it somewhat, so it places us in a position where we have to conciliate and come to an agreement. That is why we are asking that our hands not be tied in a situation like this.

I am happy to yield to the Senator from Colorado.

Mr. ALLOTT. Mr. President, I congratulate the ranking Republican member of the committee and the chairman of the committee on the position they have taken on this matter. Although I am not a member of this committee I have had an opportunity to keep close track of what has happened in these negotiations over the months.

The present legislation, for which much credit is due, was arrived at bring-

ing into the postal situation the principle of collective bargaining.

This agreement is set out on page 57 of the report and I ask unanimous consent that it may be printed in the RECORD at this point.

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

MEMORANDUM OF AGREEMENT ON THE "POSTAL REORGANIZATION AND SALARY ADJUSTMENT ACT OF 1970"

Memorandum of Agreement between United States Post Office Department hereinafter referred to as "Department" and the AFL–CIO; National Association of Letter Carriers, AFL–CIO; National Association of Post Office and General Services Maintenance Employees, AFL–CIO; National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders (Affiliated with Laborers' International Union), AFL–CIO; National Association of Special Delivery Messengers, AFL–CIO; National Federation of Post Office Motor Vehicle Employees, AFL–CIO; National Rural Letter Carriers Association; United Federation of Postal Clerks, AFL–CIO; hereinafter referred to as "Unions".

Pursuant to the earlier agreement of April 2, 1970, between the Department and the above-named unions, the parties have jointly developed, through the collective bargaining process, proposed legislation which provides for a major reorganization of the Post Office Department and an 8% pay increase for postal employees. It shall be known as the "Postal Reorganization and Salary Adjustment Act of 1970". The parties have jointly agreed to support this legislative package without qualification and that together they will urge the Congress to enact this legislation without change. The agreed-upon legislative proposal provides, amongst other things, for the following:

ORGANIZATIONAL STRUCTURE

Reorganized United States Postal Service becomes an independent establishment within the Executive Branch of the Government.

Postmaster General appointed by and serves at the pleasure of the Commission on Postal Costs and Revenues, which has 9 public members named by the President and confirmed by the Senate.

LABOR RELATIONS

Enable collective bargaining under a statutory framework establishing methods for conducting elections, providing one or more methods for resolving negotiating impasses, and requiring collective bargaining over all aspects of wages, hours, and working conditions including grievance procedures, and in general, all matters that are subject to collective bargaining in the private sector.

LABOR RELATIONS (CONT'D)

Ban on federal employee strikes continues; binding arbitration if bargaining impasse persists 180 days from start of bargaining.

National Labor Relations Board to supervise representation elections and enforce unfair labor practice provisions.

FINANCE, RATES, AND RATE-MAKING

Post Office can borrow up to $10 billion from the Treasury or general public.

Rate changes subject to public hearing before 3-man Postal Rate Board named by President; final rate decision by Commission on Postal Costs and Revenues, but subject to veto by two-thirds vote of either the U.S. House of Representatives or the U.S. Senate.

Post Office to be generally self-supporting by January 1, 1978.

POSTAL PAY INCREASE

8% pay increase for employees of the Post Office Department effective as of the date when this enabling legislation becomes law.

Promptly after enactment, collective bargaining will be required on wages, hours, and working conditions, and to compress to 8 years the time for postal employees to reach the maximum step in whatever labor grade may be established through collective bargaining. When the new schedule becomes effective, an employee will immediately be advanced to the next step in the schedule if at that time he has been in his present step for the period provided in the new schedule.

It is the understanding of the parties that the Administration will recommend to Congress the necessary legislation to effectuate this Agreement.

It is the further understanding of the parties that no disciplinary action will be initiated by the Post Office Department at any level against any postal employee with respect to the events of March 1970, until discussions have taken place between the Department and such employee's union on the policy to be followed by the Department.

Winton Blount, Post Office Department; George Meany, AFL–CIO, J. H. Rademacher, National Association of Letter Carriers, AFL–CIO; Marine Crable, National Association of Post Office and General Services Maintenance Employees, AFL–CIO; Lonnie L. Johnson, National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders, AFL–CIO; Michael J. Mullen, National Association of Special Delivery Messengers, AFL–CIO; Chester W. Parish, National Federation of Post Office Motor Vehicle Employees, AFL–CIO; Herbert F. Alfrey, National Rural Letter Carriers Association; and Francis S. Falbray, United Federation of Postal Clerks, AFL–CIO.

Date: April 16, 1970.

Mr. ALLOTT. Mr. President, the agreement which is set out on page 57 of the report was arrived at after many, many meetings of collective bargaining. First of all they got the 6-percent retroactive pay to December and then they wrote into it the paragraph contained on page 58 of the report which states under the heading "Postal pay increase":

Eight percent pay increase for employees of the Post Office Department effective as of the date when this enabling legislation becomes law.

The people who negotiated for that knew that that was not going to become law 2 days after April 16. It is only 2½ months after that date now. The next clause in that contract was very, very important. For everyone who has a real interest in postal workers of this country it may be the most important clause in the contract. It states:

Promptly after enactment, collective bargaining will be required on wages, hours, and working conditions, and to compress to 8 years the time for postal employees to reach the maximum step in whatever labor grade may be established through collective bargaining.

In my opinion this is going to be far more important over the years than the 8 percent which is embodied in the first paragraph I read.

Mr. President, I wish to add two other thoughts at this time. I see that on page 59 there is a reproduction of the signatures which signed this agreement, including the Postmaster General; George Meany of the AFL–CIO; the president of the National Association of Letter Carriers, Mr. Rademacher; the National Association of Post Office and General Services Maintenance Employees, AFL–CIO; National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders; National Association of Special Delivery Messengers; National Federation of Post Office Motor Vehicle Employees; National Rural Letter Carriers Association; and United Federation of Postal Clerks.

I do not yield to anybody in my interest in postal employees. This goes back to the time when I voted to override the veto of President Eisenhower in support of the pay raise for postal employees, and I have not changed my mind in the least about bringing these people up to a comparable position with others in like situations.

But, Members of the Senate, tonight you have to decide once and for all whether you are really going to put the Postal Department on an independent basis. Are you really going to put them on the basis where they can collectively bargain, or are you going to put yourselves in a position where every time someone is not quite satisfied with the collective bargaining position or resolution, he can come back to Congress, and we will get back into the same old merry-go-round that we have been going around for many years.

I cannot believe that the presidents of these unions signed this in ignorance or that they were misled. Within 2 weeks I have talked with the postal workers in my State, in a State convention assembled, and I stated my position very clearly. Not one dissenting voice was raised. Not one question was raised as to this position. They want, and are willing to accept, a real negotiating position as members of a union. And if we accept the amendment which is offered tonight—I hope we will not—we will have made one of the greatest mistakes we have ever made, because we will have run back down the hill for 5 years, and we will never quit running from here on out.

The PRESIDING OFFICER. Who yields time?

Mr. McGEE. Mr. President, what is the remaining time, may I ask?

The PRESIDING OFFICER. The Senator from Wyoming has 13 minutes remaining.

Mr. McGEE. How much does the other side have remaining?

The PRESIDING OFFICER. The same amount.

Mr. McGEE. Mr. President, I yield as much of that time as the Senator from Hawaii may require.

Mr. FONG. Mr. President, I sincerely appreciate the remarks of the very able senior Senator from Colorado. May I also say that when the negotiations were in progress, the parties agreed to a 6-percent increase retroactive as of December 27. Because the administration thought it could get the unions' endorsement for postal reform, they bargained to give another 8-percent pay increase.

This 8 percent is given only to the post office employees. We still have 1,300,000 other Federal white-collar employees, and another 700,000 wage board employees, who are looking to this Congress for an increase in salary. They are already coming to the Post Office and Civil Service Committee, saying, "You are giving postal employees an 8-percent increase. We think we also deserve an 8-percent increase."

I do not know whether my colleagues are aware of the fact that every time

the wages of government employees are increased by 1 percent, the cost of that increase is $450 million. One percent in the Post Office Department may be a very small amount, but once we begin to relate it to all of the Federal employees, we have a tremendous sum.

I wish to call the attention of my colleagues to the fact that, within the very near future, we will be faced with demands of Federal classified employees, and I think we will have to give them an increase, because we have given an increase to the postal employees. What that increase will be, I do not know. Whether we will be giving them retroactive pay again is a question we must face.

This is the problem that faces all the members of the Committee on Post Office and Civil Service. It is a tremendous burden on the shoulders of the members of the committee. We want to be generous to our employees. We want to give them comparability. We think we have given them comparability, according to all the expert advice we have received from the administration.

Naturally, there are some discrepancies in living cost which apply in metropolitan areas as compared with those which occur in rural areas. We have not been able to work out the problem of area wage differentials. Those in metropolitan areas think their pay is not as much as it should be. Those who work in rural areas probably receive a little more than their counterparts in private industry. These are problems on which we on the committee are working.

Because of the fact that the agreement was entered into on April 2 and April 16, 1970, and because of the fact that any reasonable employee knew—and I believe those who participated in the bargaining process knew—it would take at least 2 or 3 months before we could enact a bill, I think setting the date for this retroactive pay as of April 16 is now equitable as far as the Government is concerned.

Naturally, we know the House has passed a retroactive pay provision. We are ready to discuss this matter with them. But we would like not to be tied down to a set date.

The PRESIDING OFFICER. Who yields time?

Mr. JAVITS. Mr. President, I yield 1 minute to my colleague from New York.

Mr. GOODELL. Mr. President, I will not take very much time. We talk about a negotiated agreement. There is a transition period. We have not had a chance for it to operate so that there was a selection of who spoke for whom and who was negotiating for whom.

We are talking here about a matter of simple justice. Negotiations were held on the basis that in the event of enactment of this proposal into law there would be an 8-percent increase. But Congress was a factor in this. We have been a factor in it. We did not enact the law quickly. There was a prolonged period of time. We did not enact the law and meanwhile a lot of postal workers have not been able to pay their bills.

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

Mr. JAVITS. Mr. President, I yield the Senator 1 minute more.

Mr. GOODELL. The House has already supplemented the negotiated agreement. The Senate has already supplemented the negotiated agreement. We in the Congress are still parties to this. We do not have a full blown program of postal service that can operate with the selected negotiating agent of the workers themselves.

I think it is very important that we recognize it is the end of June and these workers have reached such a point of desperation that they are going to erupt again because they cannot pay their bills. The conferees will be in conference for some time. We are not going to settle it by the holiday. I think this retroactivity should be enacted as a signal to the workers that we are fulfilling our obligation.

Mr. JAVITS. Mr. President, I yield myself 2 minutes, and then I want to get to a vote.

The nubbin of the argument is that this is sui generis. It is unique. There is not going to be another one, because the new corporation itself will be able to enter into collective bargaining.

It is hard for us to turn our minds back to April 16, but on April 16 they were all out on strike.

This deal was made with them, and they assumed—and I think they had a right to assume—that Congress would act very quickly, because there was a great emergency. Quite typical of the postal workers, who have behaved this way for decades, they went back to work, on the strength of the fact that the President and the administration said, "We will put this thing through right away."

Well, we did not. The most you can ask for under those circumstances is 30 days.

I ask the Senator from Wyoming—and incidentally, I would like to join in the tribute to their interest, their fine employee relations, their genuineness of heart, and the eloquence of the Senator from Hawaii, in which I take great pleasure. The fact is, however, that there is an inequity, a fact which is being recognized by the manager of the bill. The question is, how wide shall be the band? I think under the circumstances of these men trusting the U.S. Government by coming back to work, the band is much too wide.

That is the real nub of the reason why I had to make this amendment, and had to pick, because there was no other way to do it, in view of the attitude of the committee, the date picked by the other body. We may be off 2 weeks, and we may not. The fundamental fact that these people are waiting, when they have no reason to believe that they would have to take this long, is the real basis for this amendment, which I think the Senate ought to agree to out of respect for the long-standing perseverence, in the finest traditions of Government employment, of the postal workers. In the face of the fact that they have been badly treated for years, I say this amendment ought to be adopted as a matter of simple justice.

Mr. McGEE. Mr. President, the record of the colloquy on this floor tonight demonstrates the concern of this body and its leadership for equity, and likewise reflects our concern for responsibility. We believe this gives us the leeway for both efficiency and equity in serving responsibly in this very difficult matter.

In accordance with a previous agreement, I move to lay on the table the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, I demand the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator from Wyoming yield back the remainder of his time?

Mr. McGEE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion to lay on the table the amendment of the Senator from New York (Mr. JAVITS). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. McCARTHY), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Ohio (Mr. YOUNG), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Illinois (Mr. PERCY) is absent on official business, and, if present and voting, would vote "nay."

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

The Senator from Illinois (Mr. SMITH) is detained on official business.

If present and voting, the Senator from South Dakota (Mr. MUNDT) and the Senator from Illinois (Mr. SMITH) would each vote "nay."

The result was announced—yeas 25, nays 61, as follows:

[No. 205 Leg.]

YEAS—25

Allott	Ellender	Smith, Maine
Bellmon	Ervin	Sparkman
Bennett	Fong	Stevens
Boggs	Griffin	Thurmond
Byrd, Va.	Gurney	Tower
Cook	Hruska	Williams, Del.
Curtis	Jordan, Idaho	Young, N. Dak.
Dole	Long	
Dominick	McGee	

NAYS—61

Aiken	Harris	Murphy
Allen	Hart	Muskie
Baker	Hartke	Packwood
Bayh	Hatfield	Pastore
Bible	Hollings	Pearson
Brooke	Hughes	Pell
Burdick	Jackson	Prouty
Byrd, W. Va.	Javits	Proxmire
Cannon	Jordan, N.C.	Randolph
Case	Kennedy	Ribicoff
Church	Magnuson	Saxbe
Cooper	Mansfield	Schweiker
Cotton	Mathias	Scott
Cranston	McClellan	Spong
Eagleton	McGovern	Symington
Fannin	McIntyre	Talmadge
Fulbright	Metcalf	Tydings
Goodell	Miller	Williams, N.J.
Gore	Mondale	Yarborough
Gravel	Montoya	
Hansen	Moss	

NOT VOTING—14

Anderson	Inouye	Russell
Dodd	McCarthy	Smith, Ill.
Eastland	Mundt	Stennis
Goldwater	Nelson	Young, Ohio
Holland	Percy	

So Mr. McGEE's motion to lay Mr. JAVITS' amendment on the table was rejected.

The PRESIDING OFFICER. The question now recurs on the amendment of the Senator from New York.

Mr. DOLE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York. 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 Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Florida (Mr. HOLLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "yea."

Mr. GRIFFIN. I announced that the Senator from Illinois (Mr. PERCY) is absent on official business, and if present and voting, would vote "yea."

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

If present and voting, the Senator from South Dakota (Mr. MUNDT) would vote "yea."

The result was announced—yeas 73, nays 14, as follows:

[No. 206 Leg.]

YEAS—73

Aiken	Gurney	Murphy
Allen	Hansen	Muskie
Baker	Harris	Packwood
Bayh	Hart	Pastore
Bellmon	Hartke	Pearson
Bible	Hatfield	Pell
Brooke	Hollings	Prouty
Burdick	Hruska	Proxmire
Byrd, Va.	Hughes	Randolph
Byrd, W. Va.	Jackson	Ribicoff
Cannon	Javits	Saxbe
Case	Jordan, N.C.	Schweiker
Church	Jordan, Idaho	Scott
Cooper	Kennedy	Smith, Ill.
Cotton	Magnuson	Sparkman
Cranston	Mansfield	Spong
Dole	Mathias	Stevens
Dominick	McClellan	Symington
Eagleton	McGovern	Talmadge
Ervin	McIntyre	Tower
Fannin	Metcalf	Tydings
Fulbright	Miller	Williams, N.J.
Goodell	Mondale	Yarborough
Gore	Montoya	
Gravel	Moss	

NAYS—14

Allott	Ellender	Smith, Maine
Bennett	Fong	Thurmond
Boggs	Griffin	Williams, Del.
Cook	Long	Young, N. Dak.
Curtis	McGee	

NOT VOTING—13

Anderson	Inouye	Russell
Dodd	McCarthy	Stennis
Eastland	Mundt	Young, Ohio
Goldwater	Nelson	
Holland	Percy	

So Mr. JAVITS' amendment was agreed to.

Mr. ALLEN. Mr. President, during the period starting in early 1968 and continuing down to the present time I took a stand in connection with postal service reform, for the following principles:

First. Postal reform;

Second. Equitable salary increases for postal employees;

Third. Enactment into law of President Kennedy's Executive Order 10988 providing that postal employees can join or refuse to join a labor union; and

Fourth. Opposition to compulsory unionism for Government employees.

On three test votes today I have voted in opposition to compulsory unionism for postal employees. It is impossible now following the various amendments added to the House bill to vote for all four principles in the one bill.

The bill now goes to conference on the Senate and House versions of the bill. The House opposed compulsory unionism and it is hoped that the House version will prevail.

Accordingly, I will cast my vote in favor of the postal reform bill on final passage.

Mr. COOPER. Mr. President, I shall vote against the bill, only because of its compulsory union provision. If this is corrected in conference I will vote for the bill, as I approve the advances in pay scale, and other benefits.

Section 1309 of the Senate bill would extend the provision of the Taft-Hartley Act to the employee-management relations provided for in this bill.

Section 14(b) of the Taft-Hartley Act authorizes States to enact legislation which would prohibit the union shop as a condition of employment in any collective bargaining agreement. Some 19 States have enacted laws prohibiting the union shop. In the remaining 31 States, of which group is included Kentucky, the union shop requirement is the subject of collective bargaining between employer and the certified union bargaining representatives.

Under the Senate bill, the union representatives and the Board of Governors of the Postal Service could enter into collective bargaining agreements providing for a union shop, but only in those States where no State law, enacted pursuant to section 14(b) of the Taft-Hartley Act, prohibits such agreement. Thus, under the committee bill, employees in some 31 States could be subject to the union shop requirement and employees in the remaining 19 States could not be required to join a union.

Federal employees have historically enjoyed the right to work for their Government without joining a union. In Executive Order 10988, President Kennedy set forth the basic policy for labor-management relations in the Federal service as follows:

> Each employee . . . have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from such activity, and each employee shall be protected in the exercise of this right.

This Executive order was continued in force and effect by President Johnson.

President Nixon followed in this tradition and issued Executive Order No. 11491 which states in section 1(A) the following:

> Each [Federal] employee has the right, freely and without fear of penalty or reprisal, to form, join and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

I am informed that at the present time, there are approximately 750,000 postal workers. Of this group, some 250,000 do not presently belong to a union. Under section 1309 of the Senate bill, the officials of the Postal Service and the postal union can negotiate union shop contracts in the 31 States in which they are not outlawed, which contracts would require postal employees to join a union and pay union dues in order to keep their jobs. I repeat, in order to keep a Government position.

In 1947, I voted for the Taft-Hartley Act. However, I make a very clear distinction between private employment and Government employment. I believe that one of the great promises of our country and one of its virtues is that Government employment is open to all, with persons qualifying at various levels according to their abilities without any requirement that they must be affiliated with a union to obtain or retain their employment, or with any other organization.

I note that in his testimony before the House Post Office Committee, Mr. George Meany, president of the AFL–CIO, a very honest man, stated that the union shop agreement for postal employees through collective bargaining will be the first step toward unionizing all employees in Government departments and agencies whether or not an employee desires to become a member of a union.

In conclusion, I believe that those Americans who wish to become a part of the Government and serve the public should be encouraged to do so, should owe their loyalty 100 percent to the Government, and should not be required to join a labor organization in order to continue in public service.

I have supported all legislation to enable non-Government workers to freely decide whether they shall be affiliated with a union—and the union shop principle. But I cannot vote for compulsory unions for Government employees, requiring them to join unions, to pay check-off dues, and to rely on their union for proper pay, benefits and working conditions, and Government employment itself, rather than rely on the U.S. Government and the States to which all of us owe our loyalty.

Mr. THURMOND. Mr. President, I have always supported postal reform for I feel it is greatly needed and long overdue. It is time that the Post Office is taken out of politics and put on a sound economic basis.

I am compelled, however, to vote against this bill for a more important and overriding issue. One section of this bill requires compulsory union membership for U.S. postal workers. In my judgment, no man should be forced to join a union in order to obtain or hold a job. This is especially true with regard to Government employees.

Passage of this legislation will pave way for repudiation of freedom of choice

for the Nation's 750,000 postal workers—some 200,000 of whom are not members of unions—and establish a precedent whereby more than 12,000,000 Federal, State, and local government employees could be compelled to join national labor organizations against their wishes.

It is my hope that this particular feature of the bill will be eliminated by the Senate-House conference committee and that my position, which would give postal workers a free choice with regard to union membership, will be ultimately accepted by the Congress.

The PRESIDING OFFICER (Mr. MONTOYA). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

Mr. SCOTT. Mr. President, I rise to ask the distinguished majority leader whether there is further legislative business tonight——

Mr. MANSFIELD. The Senator means this morning.

Mr. SCOTT. This morning and thereafter. [Laughter.]

Mr. MANSFIELD. First, allow me to make a unanimous-consent request.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 17070, the House companion bill.

The PRESIDING OFFICER. The clerk will report.

The BILL CLERK. H.R. 17070, to improve and modernize the postal service, to reorganize the Post Office Department, 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.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the text of the Senate bill, as it has proceeded to third reading, be substituted for the text of the House-passed bill, H.R. 17070, and that the House-passed bill with the substituted text proceed to third reading, and that the Senate proceed to final passage on that bill as amended.

The PRESIDING OFFICER (Mr. MONTOYA). Without objection, all after the enacting clause in H.R. 17070 will be stricken and the Senate approved language; namely, the committee amendment as amended, will be substituted therefor.

PROGRAM

Mr. MANSFIELD. Mr. President, in response to the question that was raised by the distinguished minority leader, it is the intention of the joint leadership to lay down Calendar No. 987, the Interior appropriation bill, at the conclusion of morning business today. It will be taken up after certain remarks have been made by certain Senators who have special orders for later this morning.

Incidentally, the Senate will come in at 9 o'clock this morning. But before there are any ooh's and ah's, let me explain the rest of it.

Following the Interior appropriation bill, it is expected that we will take up Calendar No. 878, having to do with consumer products, and hopefully—very hopefully—Calendar Nos. 924 and 925, bills S. 26 and S. 27, having to do with certain Utah recreation areas.

It is my understanding that somewhere along in the middle of the afternoon the conference report on the District of Columbia appropriation bill will be taken up for consideration.

We should, all things being equal, quit at a reasonable hour today, if this program is attended to as anticipated. It will be the suggestion of the joint leadership that the Senate meet at 9 o'clock on Thursday morning next, but only for a pro forma meeting—no business on that day; and the Senate will then return at 12 noon on Monday next.

The order of business then, as of now, will be the Independent Offices appropriation bill, to be followed by the agricultural appropriation bills. Both will have some discussion attached to them; then, hopefully, the Alaska native claims bill, and the Defense Production Act, and the Gulf of Tonkin repeal resolution.

That is about it.

Mr. SCOTT. Mr. President, I want to thank the distinguished majority leader and suggest that on Thursday, we probably will not go through the formality of calling a quorum.

The PRESIDING OFFICER. The question is on third reading of the bill, H.R. 17070.

The bill, H.R. 17070, was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. MCGEE. Mr. President, I have agreed previously to yield to the distinguished Senator from Alaska for 1 minute.

THREATS TO U.S. SENATORS

Mr. GRAVEL. Mr. President, I wish to inform the Senate of an urgent matter which has come to my attention, and I hope that all Senators will bear with me for a few moments, because I feel that they should know what is going on.

I hold in my hand a transcript of a recorded telephone message which has actually been made public. Of course, it will be made public by my statement here.

If Senators will bear with me. I shall read it:

Hello. I am Dr. William Pierce, with the National Socialist White Peoples Party.

Well, Mr. Nixon kept his promise and withdrew all our troops from Cambodia, even before they had a chance to finish the job they were sent there to do. All our generals told us they needed more time to thoroughly clean the Reds out of Cambodia. But the Reds in our own Senate were squawking so loudly that Nixon, always the compromiser, agreed to pull our men out.

As any honest military man will tell you, there is only one way to fight a war, and that is with the uncompromising determination to destroy the enemy, to inflict a total defeat on him. If you aren't ready and willing to do that, then you damned well better not go to war.

But Mr. Nixon is not a soldier; he's a politician. He doesn't want to be an extremist. He wants to keep everybody happy. He wants to pull us all together, he says—the pinks together with the patriots. The result can only be the half measures, the indecisions and the restrictions on the use of our weapons that have characterized the whole Vietnam war.

When it is all over, 50,000 young Americans will have been killed for nothing—for nothing—because we won't have really settled anything. We won't really have won a war. And the reason, in addition to Nixon's complete lack of spine, the reason will be treason!

And just as there is only one way to fight a war, there is only one way to deal with a traitor. You don't bargain with him or vote against him in the next election, you kill him. McGovern, Fulbright, Hatfield—the whole rotten bunch, needs a bullet right between the eyes.

The National Socialist White Peoples Party is holding a public rally on Sunday, July 5, at 2 p.m., at Ninth and Constitution Avenue, in Washington. We will talk about the war and other issues of vital concern to white Americans. We hope you will be there.

This message comes to you from 2507 North Franklin Road, in Arlington.

Mr. SCOTT. Mr. President, I should like to say to the Senator from Alaska that just 2 hours ago, I heard this message myself on the telephone. The security forces of the United States have been alerted and informed of it.

Mr. MAGNUSON. Mr. President, let me say that as one who heard this about 2 hours ago, too, I immediately got in touch with the chairman of the Communications Subcommittee, who called the Attorney General and advised him of this message. The Attorney General said that he would immediately get on to it.

The distinguished Senator from Rhode Island (Mr. PASTORE) was somewhat shocked about this statement about shooting certain people right between the eyes.

THE POSTAL REORGANIZATION ACT

The Senate continued with the consideration of the bill (S. 3842) to improve and modernize the postal service, to reorganize the Post Office Department, and for other purposes.

The PRESIDING OFFICER (Mr. MONTOYA). The bill having been read the third time, the question is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. KENNEDY. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Connecticut (Mr. DODD), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Florida (Mr. HOLLAND), the Senator from Wisconsin (Mr. NELSON), the Senator from Georgia (Mr. RUSSELL), the Senator from Mississippi (Mr. STENNIS), the Senator from Texas (Mr. YARBOROUGH), and the Senator from Ohio (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Mississippi (Mr. EASTLAND) would vote "yea."

I further announce that, if present and voting, the Senator from Florida (Mr. HOLLAND) would vote "nay."

Mr. GRIFFIN. I announce that the

Senator from Illinois (Mr. PERCY) is absent on official business.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Arizona (Mr. GOLDWATER) is necessarily absent.

If present and voting, the Senator from South Dakota (Mr. MUNDT), and the Senator from Illinois (Mr. PERCY) would each vote "yea."

The result was announced—yeas 77, nays 9, as follows:

[No. 207 Leg.]

YEAS—77

Aiken	Gore	Montoya
Allen	Gravel	Moss
Allott	Griffin	Murphy
Baker	Gurney	Muskie
Bayh	Hansen	Packwood
Bellmon	Harris	Pastore
Bennett	Hart	Pearson
Bible	Hartke	Pell
Boggs	Hatfield	Prouty
Brooke	Hruska	Proxmire
Burdick	Hughes	Randolph
Byrd, Va.	Jackson	Ribicoff
Byrd, W. Va.	Javits	Schweiker
Cannon	Jordan, N.C.	Scott
Case	Jordan, Idaho	Smith, Maine
Church	Kennedy	Smith, Ill.
Cook	Long	Sparkman
Cotton	Magnuson	Spong
Cranston	Mansfield	Stevens
Dole	Mathias	Symington
Dominick	McGee	Talmadge
Eagleton	McGovern	Tower
Fannin	McIntyre	Tydings
Fong	Metcalf	Williams, N.J.
Fulbright	Miller	Young, N. Dak.
Goodell	Mondale	

NAYS—9

Cooper	Ervin	Saxbe
Curtis	Hollings	Thurmond
Ellender	McClellan	Williams, Del.

NOT VOTING—14

Anderson	Inouye	Russell
Dodd	McCarthy	Stennis
Eastland	Mundt	Yarborough
Goldwater	Nelson	Young, Ohio
Holland	Percy	

So the bill (H.R. 17070) was passed.

AUTHORITY FOR SECRETARY OF SENATE TO MAKE CLERICAL AND TECHNICAL CORRECTIONS IN THE ENGROSSMENT OF THE BILL

Mr. McGEE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make clerical and technical corrections in the engrossment of the Senate amendment to the House bill.

The PRESIDING OFFICER (Mr. MONTOYA). Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, once again this week I must ask the Senate's indulgence at a late hour. I need only a moment to extend the gratitude of this body to the able chairman of the Senate Committee on Post Office and Civil Service, the Senator from Wyoming (Mr. McGEE). He has stood the test that few men are asked to stand. He has devoted his tireless efforts to a postal reorganization measure which all of us must admit is long overdue. And he has done it by cooperating faithfully, he has been consistently willing to stay late the past several evenings in order to accommodate the special circumstances that have prevailed regarding the Senate's program. Senator McGEE has again demonstrated his outstanding skill and competence. He is to be highly commended.

Our thanks go as well to the distinguished Senator from Hawaii (Mr. FONG) whose splendid supporting efforts were indispensable to this success.

To the Senate as a whole I offer my deepest thanks. Every Member joined with the highest degree of cooperation to assure the swift and efficient disposition of this measure tonight. As has often been the case in the past several days, this high degree of cooperation was essential to assure the orderly conduct of business. I am proud that the Senate joined so well in this endeavor. It has been a credit to this entire body.

SUMMARY OF PRESIDENT NIXON'S REPORT ON CAMBODIA

Mr. DOLE. Mr. President, I ask unanimous consent that there be printed at this point in the RECORD a summary of a report by the President on the Cambodian operations.

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

SUMMARY OF THE PRESIDENT'S REPORT ON CAMBODIA

All American troops have withdrawn from Cambodia on the schedule announced at the beginning of the operation. Together with our South Vietnamese allies, they have just completed successfully the destruction of enemy base areas along the Cambodian-South Vietnamese frontier.

RESULTS OF THE OPERATIONS

Allied sweeps through enemy occupied sanctuaries in Cambodia will:

1. Save American and allied lives in the future;

2. Assure that the withdrawal of American troops from South Vietnam can proceed on schedule;

3. Enable the program of Vietnamization to continue on its current timetable;

4. Enhance the prospects for a just peace.

These results will flow from the following:

The elimination of an immediate threat to our forces and the security of South Vietnam.

The capture of great amounts of enemy supplies.

The ending of the concept of immune Cambodian sanctuaries for the enemy.

The dislocation of enemy supply lines and strategy in the southern part of South Vietnam.

The bolstering of the morale and self-confidence of the South Vietnamese army.

The maintenance of U.S. credibility.

UNDERLYING BASIS FOR U.S. ACTION

It was North Vietnam—not the U.S.—which brought the Vietnam war into Cambodia.

It was the presence of North Vietnamese troops on Cambodian soil that contributed to the downfall of Prince Sihanouk.

It was the government appointed by Prince Sihanouk and ratified by the Cambodian National Assembly—not a group of usurpers—which overthrew him, with the approval of the National Assembly.

It was the major expansion of enemy activity in Cambodia that ultimately caused allied troops to end five years of restraint and attack the Communist base areas.

FUTURE U.S. POLICY FOR CAMBODIA

The following will be the guidelines of U.S. policy for Cambodia:

There will be no U.S. ground personnel in Cambodia except for the regular staff of the U.S. Embassy in Phnom Penh.

There will be no U.S. advisers with Cambodian units.

The U.S. will conduct—with the approval of the Cambodian Government—air interdiction missions against the enemy efforts to move supplies and personnel through Cambodia towards South Vietnam and to reestablish base areas relevant to the war in Vietnam.

The U.S. will turn over material captured in the base areas in Cambodia to the Cambodian Government to help it defend its neutrality and independence.

The U.S. will provide military assistance to the Cambodian Government in the form of small arms and relatively unsophisticated equipment in types and quantities suitable for their army.

The U.S. will encourage other countries of the region to give diplomatic support to the independence and neutrality of Cambodia and welcomes efforts of the Djakarta Group of countries to encourage Asian cooperation to this end.

The U.S. will encourage and support the efforts of third countries who wish to furnish Cambodia with troops or material to help Cambodia preserve its neutrality and independence.

SAIGON'S ROLE

The U.S. understands that Saigon will remain ready:

To prevent reestablishment of base areas along South Vietnam's frontier.

To assist in the evacuation of Vietnamese civilians and respond selectively to appeals from the Cambodian Government should North Vietnamese aggression make this necessary.

Most of the South Vietnamese operations will be launched from within South Vietnam and there will be no U.S. air, logistic support or U.S. advisers on these operations. The primary objective of the South Vietnamese remains Vietnamization within their country.

THE SEARCH FOR PEACE

The President reaffirms his paramount objective of achieving a negotiated settlement and appeals to Hanoi to join in this effort, emphasizing:

Hanoi cannot impose its will through military means. The U.S. has no intention of imposing its own will.

The U.S. has not raised the terms for a settlement as a result of Cambodian successes nor will it lower its minimum terms in response to enemy pressure.

The U.S. reiterates all previous proposals—public and private—searching for a political solution that reflects the will of the South Vietnamese people and allows them to determine their future without outside interference.

The U.S. recognizes that a fair political solution should reflect the existing relationship of political forces. The U.S. pledges to abide by the outcome of the political process agreed upon by the South Vietnamese.

The U.S. pledges renewed efforts to bring about genuine negotiations for a just peace in Southeast Asia.

REPORT BY THE PRESIDENT ON THE CAMBODIAN OPERATION

Together with the South Vietnamese, the Armed Forces of the United States have just completed successfully the destruction of enemy base areas along the Cambodian—South Vietnam frontier. All American troops have withdrawn from Cambodia on the schedule announced at the start of the operation.

The allied sweeps into the North Vietnamese and Vietcong base areas along the Cambodian-South Vietnamese border:

Will save American and allied lives in the future;

Will assure that the withdrawal of American troops from South Vietnam can proceed on schedule;

Will enable our program of Vietnamization to continue on its current timetable;

Should enhance the prospects for a just peace.

At this time, it is important to review the background for the decision, the results of the operation, their larger meaning in terms of the conflict in Indochina—and to look down the road to the future.

It is vital to understand at the outset that Hanoi left the United States no reasonable option but to move militarily against the Cambodian base areas. The purpose and significance of our operations against the Cambodian sanctuaries can only be understood against the backdrop of what we are seeking to accomplish in Vietnam—and the threat that the Communist bases in Cambodia posed to our objectives. Nor can that military action of the last two months be divorced from its cause—the threat posed by the constant expansion of North Vietnamese aggression throughout Indochina.

A RECORD OF RESTRAINT

America's purpose in Vietnam and Indochina remains what it has been—a peace in which the peoples of the region can devote themselves to development of their own societies, a peace in which all the peoples of Southeast Asia can determine their own political future without outside interference.

When this Administration took office, the authorized strength of American troops in South Vietnam was 549,500—the high water mark of American military presence in Southeast Asia. The United States has been negotiating at Paris for ten months but nothing had been agreed upon other than the shape of the bargaining table. No comprehensive allied peace proposal existed. There was no approved plan to reduce America's involvement in the war—in the absence of a negotiated settlement.

Since January of 1969, we have taken steps on all fronts to move toward peace. Along with the Government of South Vietnam, we have put forward a number of concrete and reasonable proposals to promote genuine negotiations. These proposals were first outlined by me 13 months ago, on May 14, 1969 and by President Thieu on July 11, 1969. Through both public and private channels, our proposals have been repeated and amplified many times since.

These proposals are designed to secure the removal of all foreign military forces from South Vietnam and to establish conditions in which all political forces can compete freely and fairly in the future of the country. Our principal goal has been to enable the people of South Vietnam to determine their future free of outside interference.

To indicate our good faith, to improve the climate for negotiations, we changed the orders to our commanders in South Vietnam. This has helped to reduce casualties. We have cut tactical air operations in South Vietnam by more than 20 percent. We initiated a troop withdrawal program which, during the course of next spring, will bring American troop strength 265,000 men below the level authorized when this Administration took office.

These are not the actions of a government pursuing a military solution. They are the decisions of a government seeking a just peace at the conference table.

But Hanoi has ignored our unilateral gestures and rejected every offer of serious negotiations. Instead it has insisted that—as a precondition to talks—we pledge unconditionally to withdraw all American forces from South Vietnam and to overthrow the elected government.

These proposals are not a basis for negotiation; they are a demand for surrender. For the United States to accept these conditions would make the negotiations meaningless. Acceptance of such conditions would assure in advance Communist domination of South Vietnam.

With Hanoi's intransigence on the negotiating front, this Administration was faced with essentially three options.

We could have continued the maximum existing level of American involvement in Vietnam. But this was incompatible with the Nixon Doctrine of increasing responsibilities for the Asian countries; and it was unacceptable to the American people.

We could have begun the immediate withdrawal of all our forces. We rejected this course of capitulation which would have only won temporary respite at the price of graver crises later. We also rejected that course as both incompatible with America's commitments and tradition, and disastrous in terms of its long-range consequences for peace in the Pacific and peace in the world.

We selected instead a third option—that of gradually shifting the total combat burden to the South Vietnamese.

Since the beginning of this Administration 17 months ago, it has been our policy to train and equip the South Vietnamese to take over the burden of their own defense from American troops. Even in the absence of progress at the peace table in Paris, and despite continued enemy pressures in South Vietnam, this policy of "Vietnamization" has permitted us to carry out repeated withdrawals of American troops.

As our policy has been tested, more and more Americans have been brought home. By June of 1969, we could announce the pullout of 25,000 American troops. They came home. In September of 1969, we announced the withdrawal of an additional 35,000 American troops. They came home.

In December of 1969, we announced the withdrawal of 50,000 more American troops. They were home by spring of this year. On April 20, I announced the forthcoming withdrawal of an additional 150,000 Americans to be completed during next spring—50,000 of them will be home or on their way home by the 15th of October.

A POLICY IN TRANSITION

This transfer of primary responsibility for self-defense from American forces to Asian forces reflects our approach to foreign policy. Increasingly, the United States will look to the countries of the region to assume the primary responsibility for their own security—while America moves gradually from a leading to a supporting role.

To be successful this policy requires the striking of a careful balance—whether in South Vietnam or elsewhere in Asia. While the growing strength of our allies, and the growing measure of their regional cooperation allows for a reduction in American presence—they could not survive a sudden and precipitous American withdrawal from our responsibilities. This would lead to a collapse of local strength in the transition period between the old era of principal U.S. involvement to the new era of partnership and emphasis on local and regional cooperation.

Doing too much for an allied people can delay their political maturity, promote a sense of dependency, and diminish that nation's incentive to stand on its own feet. But doing too little for an ally can induce a sense of despair, endanger their right of self-determination and invite their defeat when confronted by an aggressor.

As we have proceeded with Vietnamization it has been with these principles in mind.

Looking at American policy in Vietnam these seventeen months, this Administration—in the generosity of its negotiating offers, in the limitations on its military actions, and in the consistency of its troop withdrawals—has written a record of restraint. The response from the enemy over those same seventeen months has been intransigence in Paris, belligerence from Hanoi and escalation of the war throughout Indochina.

Enemy attacks in Vietnam increased during April.

This past winter Hanoi launched a major offensive against the legitimate government of Laos which they themselves had helped to establish under the 1962 Geneva Accords. For years, in violation of those accords, North Vietnamese troops have occupied Laotian territory and used its eastern regions as a highway for the export of aggression into South Vietnam.

In March and April of this year, Communist troops used their long held bases in Cambodia to move against the Government of Cambodia in a way which increased the long-term threat to allied forces in South Vietnam as well as to the future of our Vietnamization and withdrawal programs. These new violations, too, took place against a backdrop of years of Communist disregard of the neutrality and territorial integrity of Cambodia—guaranteed in the 1954 Geneva Agreements to which Hanoi was a signatory.

BACKGROUND OF THE APRIL 30 DECISION

In assessing the April 30 decision to move against the North Vietnamese and Viet Cong sanctuaries in Cambodia, four basic facts must be remembered.

It was North Vietnam—not we—which brought the Vietnam War into Cambodia.

For five years, North Vietnam has used Cambodian territory as a sanctuary from which to attack allied forces in South Vietnam. For five years, American and allied forces—to preserve the concept of Cambodian neutrality and to confine the conflict in Southeast Asia—refrained from moving against those sanctuaries.

It was the presence of North Vietnamese troops on Cambodian soil that contributed to the downfall of Prince Sihanouk. It was the indignation of the Cambodian people against the presence of Vietnamese Communists in their country that led to riots in Phnom Penh which contributed to Prince Sihanouk's ouster—an ouster that surprised no nation more than the United States. At the end of Sihanouk's rule, the United States was making efforts to improve relations with his government and the Prince was taking steps against the Communist invaders on his national soil.

It was the government appointed by Prince Sihanouk and ratified by the Cambodian National Assembly—not a group of usurpers—which overthrew him with the approval of the National Assembly. The United States had neither connection with, no knowledge of, these events.

It was the major expansion of enemy activity in Cambodia that ultimately caused allied troops to end five years of restraint and attack the Communist base areas.

The historical record is plain.

Viet Cong and North Vietnamese troops have operated in Eastern Cambodia for years. The primary objective of these Communist forces has been the support of Hanoi's aggression against South Vietnam. Just as it has violated the 1962 Geneva Accords on Laos, North Vietnam has consistently ignored its pledge, in signing the 1954 Geneva Accords, to respect Cambodian neutrality and territorial integrity.

In a May 1967 Phnom Penh radio broadcast, Prince Sihanouk's following remarks were reported to the Cambodia people:

"I must tell you that the Vietnamese communists and the Viet Cong negotiated with us three or four times but that absolutely nothing comes out of the negotiations . . . After I expelled the French and after the French troops left Cambodia, Viet Minh remained in our country in order to conquer it. How can we have confidence in the Viet Minh? . . . If we side with the Viet Minh we will lose our independence."

Late in 1969, Prince Sihanouk ordered Cambodia's underequipped and weak armed forces to exercise some measure of control over North Vietnamese and Viet Cong Communist forces occupying Cambodian territory.

At the same time, the Communist forces

were actively preparing in their base areas for new combat in South Vietnam. These areas—on the Cambodian side of the Vietnam-Cambodian border—have for years served as supply depots and base camps for enemy troops infiltrated through Laos into South Vietnam. They have also served as sanctuaries for North Vietnamese and Viet Cong headquarters elements and for combat troops to rest, refit and re-supply on their return from South Vietnam.

Our screening of more than six tons of documents captured in the Cambodian operations has provided conclusive proof of Communist reliance on Cambodia as a logistic and infiltration corridor and as a secure area from which Communist designs on Vietnam as well as in Cambodia itself could be carried out.

On January 6, 1970, Prince Sihanouk departed on vacation in France. His Prime Minister, Lon Nol, and Deputy Prime Minister, Sirik Matak, were left in charge. In early March, with Sihanouk still in power, there were public demonstrations, first in the Eastern provinces of Cambodia and later in Phnom Penh, against flagrant North Vietnamese violation of Cambodia's territorial integrity.

On March 13, Prince Sihanouk left Paris for Moscow and Peking, avowedly to seek Soviet and Chinese assistance in persuading the Vietnamese Communists to reduce the presence of North Vietnamese and Viet Cong forces in Cambodia.

Then, on March 18, the Cambodian National Assembly by unanimous vote declared that Phince Sihanouk was no longer Chief of State. Cheng Heng was retained as Acting Chief of State. Lon Nol and Sirik Matak kept their positions. Reasons for Sihanouk's ouster included growing objections to his mishandling of the economy and to his bypassing of the Cabinet and National Assembly; but resentment over North Vietnam's flagrant misuse of Cambodian territory certainly contributed. Sihanouk arrived in Peking the same day, and met with the Peking leadership as well as with the North Vietnamese Prime Minister who had hastened to Peking to greet him. Thereafter Sihanouk has increasingly identified himself with the Communist cause in Indochina.

This government had no advance warning of the ouster of Sihanouk, with whom we had been attempting to improve relations. Our initial response was to seek to preserve the status quo with regard to Cambodia and to try to prevent an expansion of Communist influence. The immunity of the Cambodian sanctuaries had been a serious military handicap for us for many years. But we had refrained from moving against them in order to contain the conflict. We recognized both the problems facing Sihanouk and the fact that he had exercised some measure of control over Communist activities, through regulation of the flow of rice and military supplies into the sanctuaries from coastal ports. We considered that a neutral Cambodia outweighed the military benefits of a move against the base areas.

This is why diplomatically our first reaction to Sihanouk's overthrow was to encourage some form of accommodation in Cambodia. We spoke in this sense to interested governments. And we made clear through many channels that we had no intention of exploiting the Cambodian upheaval for our own ends.

These attempts ran afoul of Hanoi's designs. North Vietnam and the Viet Cong withdrew their representation from Phnom Penh. North Vietnamese and Viet Cong forces began to expand their base areas along the border.

By April 3, they were beginning to launch attacks against Cambodian forces in Svay Reing Province. Later these attacks were extended to other outposts in Eastern Cambodia, forcing Cambodian troops to evacuate border positions in the Parrot's Beak area by April 10. Communist attacks were also directed against Mekong River traffic.

By April 16, the North Vietnamese and Viet Cong troops began to launch isolated attacks deep into Cambodia including an attack on the Capital of Takeo Province south of Phnom Penh.

Despite escalating Communist activity in Cambodia, we continued to exercise restraint. Though the implications of the Communist actions for our efforts in Vietnam were becoming increasingly ominous, Communist intentions in Cambodia were still not absolutely clear. The military moves by the North Vietnamese and Viet Cong in Cambodia could still be interpreted as temporary actions to secure their base camps in light of the uncertainties following Sihanouk's removal.

When I made my April 20 speech announcing the withdrawal of 150,000 troops over the next year, I knew that we might be at a crossroads in Cambodia. I nevertheless made the announcement because it would leave no doubt about our intention to de-escalate the conflict.

I also used the occasion to restate very forthcoming political principles for a negotiated peace. At the same time I described the pattern of North Vietnamese aggression in Indochina, and acknowledged my withdrawal decision involved some risks when viewed against this enemy escalation. I therefore reiterated my determination to take strong and effective measures if increased enemy action in Laos, Cambodia or South Vietnam jeopardized the security of our remaining forces in Vietnam.

Within days of my April 20 speech, Communists' intentions became gainfully and unambiguously clear. In the face of our restraint and our warnings, the North Vietnamese continued to expand their territorial control, threatening to link up their base areas. From a series of isolated enclaves, the base areas were rapidly becoming a solid band of self-sustaining territory stretching from Laos to the sea from which any pretense of Cambodian sovereignty was rapidly being excluded.

On April 20, North Vietnamese forces temporarily captured Saang, only eighteen miles south of Phnom Penh.

On April 22, Communist forces assaulted the town of Snoul east of Phnom Penh.

On April 23, they attacked the town of Mimot and an important bridge linking the town of Snoul and the capital of Kratie Province on Route 13.

On April 24, they moved on the resort city of Kep.

On April 26, they attacked some ships on the Mekong and occupied the town of Angtassom, a few miles west of Takeo.

They then attacked the city of Chhlong, on the Mekong River north of Phnom Penh, and the port city of Kampot.

During this same period, they cut almost every major road leading south and east out of Phnom Penh.

The prospect suddenly loomed of Cambodia's becoming virtually one large base area for attack anywhere into South Vietnam along the 600 miles of the Cambodian frontier. The enemy in Cambodia would have enjoyed complete freedom of action to move forces and supplies rapidly across the entire length of South Vietnam's flank to attack our forces in South Vietnam with impunity from well-stocked sanctuaries along the border.

We thus faced a rapidly changing military situation from that which existed on April 20.

The possibility of a grave new threat to our troops in South Vietnam was rapidly becoming an actuality.

This pattern of Communist action prior to our decision of April 30 makes it clear the enemy was intent both on expanding and strengthening its military position along the Cambodian border and overthrowing the Cambodian government. The plans were laid, the orders issued, and already being implemented by Communist forces.

Not only the clear evidence of Communist actions—but supporting data screened from more than six tons of subsequently captured Communist documents—leaves no doubt that the Communists' move against the Cambodian Government preceded the U.S. action against the base areas.

Three options

On April 30, before announcing our response, I outlined the three basic choices we had in the face of the expanding Communist threat.

First, we could do nothing. This would have eroded an important restraint on the loss of American lives. It would have run the risk of Cambodia's becoming one vast enemy staging area, a springboard for attacks on South Vietnam without fear of retaliation. The dangers of having done nothing would not have fully materialized for several months and this government might have been commended for exercising restraint. But, as withdrawals proceeded, our paralysis would have seriously jeopardized our forces in Vietnam and would have led to longer lists of American casualties. The United States could not accept the consequences of inaction in the face of this enemy escalation. The American men remaining in South Vietnam after our withdrawal of 150,000 would have been in severe jeopardy.

Our second choice was to provide massive assistance to Cambodia. This was an unrealistic alternative. The small Cambodian army of 30,000 could not effectively utilize any massive transfusion of military assistance against the immediate enemy threat. We also did not wish to get drawn into the permanent direct defense of Cambodia. This would have been inconsistent with the basic premises of our foreign policy.

After intensive consultations with my top advisers, I chose the third course. With the South Vietnamese we launched joint attacks against the base areas so long occupied by Communist forces.

Our military objectives were to capture or destroy the arms, ammunition and supplies that had been built up in those sanctuaries over a period of years and to disrupt the enemy's communication network. At the least this would frustrate the impact of any Communist success in linking up their base areas if it did not prevent this development altogether.

I concluded that, regardless of the success of Communist assaults on the Cambodian Government, the destruction of the enemy's sanctuaries would:

Remove a grave potential threat to our remaining men in South Vietnam, and so reduce future American casualties.

Give added assurance of the continuance of our troop withdrawal program.

Insure the timetable for our Vietnamization program.

Increase the chances of shortening the war in South Vietnam.

Enhance the prospects of a negotiated peace.

Emphasize to the enemy whether in Southeast Asia or elsewhere that the word of the United States—whether given in a promise or a warning—was still good.

THE MILITARY OPERATIONS

Ten major operations were launched against a dozen of the most significant base areas with 32,000 American troops and 48,000 South Vietnamese participating at various times. As of today, all Americans, including logistics personnel and advisers, have withdrawn, as have a majority of the South Vietnamese forces.

Our military response to the enemy's escalation was measured in every respect. It was a limited operation for a limited period of time with limited objectives.

We have scrupulously observed the 21-mile limit on penetration of our ground combat forces into Cambodian territory. These self-imposed time and geographic restrictions may have cost us some military advantages, but we knew that we could achieve our primary objectives within these restraints. And these restraints underscored the limited nature of our purpose to the American people.

My June 3 interim report pointed up the success of these operations and the massive amounts of supplies we were seizing and destroying. We have since added substantially to these totals. A full inventory is attached as an appendix to the report. Here are some highlights.

According to latest estimates from the field, we have captured:

22,892 individual weapons—enough to equip about 74 full-strength North Vietnamese infantry battalions and 2,509 big crew-served weapons—enough to equip about 25 full-strength North Vietnamese infantry battalions;

More than 15 million rounds of ammunition or about what the enemy has fired in South Vietnam during the past year;

14 million pounds of rice, enough to feed all the enemy combat battalions estimated to be in South Vietnam for about four months;

143,000 rockets, mortars, and recoilless rifle rounds, used against cities and bases. Based on recent experience, the number of mortars, large rockets, and recoilless rifle rounds is equivalent to what the enemy shoots in about 14 months in South Vietnam;

Over 199,552 anti-aircraft rounds, 5,482 mines, 62,022 grenades, and 83,000 pounds of explosives, including 1,002 satchel charges;

Over 435 vehicles and destroyed over 11,688 bunkers and other military structures.

And while our objective has been supplies rather than personnel, the enemy has also taken a heavy manpower loss—11,349 men killed and about 2,328 captured and detainees.

These are impressive statistics. But what is the deeper meaning of the piles of enemy supplies and the rubble of enemy installations?

We have eliminated an immediate threat to our forces and to the security of South Vietnam—and produced the prospect of fewer American casualties in the future.

We have inflicted extensive casualties and very heavy losses in material on the enemy—losses which can now be replaced only from the North during a monsoon season and in the face of counteraction by South Vietnamese ground and U.S. air forces.

We have ended the concept of Cambodian sanctuaries, immune from attack, upon which the enemy military had relied for five years.

We have dislocated supply lines and disrupted Hanoi's strategy in the Saigon area and the Mekong Delta. The enemy capacity to mount a major offensive in this vital populated region of the South has been greatly diminished.

We have effectively cut off the enemy from resupply by the sea. In 1969, well over half of the munitions being delivered to the North Vietnamese and Viet Cong in Cambodia came by sea.

We have, for the time being, separated the Communist main force units—regular troops organized in formal units similar to conventional armies—from the guerrillas in the southern part of Vietnam. This should provide a boost to pacification efforts.

We have guaranteed the continuance of our troop withdrawal program. On June 3, I reaffirmed that 150,000 more Americans would return home within a year and announced that 50,000 would leave Vietnam by October 15.

We have bought time for the South Vietnamese to strengthen themselves against the enemy.

We have witnessed visible proof of the success of Vietnamization as the South Vietnamese performed with skill and valor and competence far beyond the expectation of our commanders or American advisers. The morale and self-confidence of the Army of South Vietnam is higher than ever before.

These then are the major accomplishments of the operations against the Cambodian base areas. Americans can take pride in the leadership of General Abrams and in the competence and dedication of our forces.

There is another way to view the success of these operations. What if we had chosen the first option—and done nothing?

The enemy sanctuaries by now would have been expanded and strengthened. The thousands of troops he lost, in killed or captured, would be available to attack American positions and with enormous resources that we captured or destroyed still in his hands.

Our Vietnamization program would be in serious jeopardy; our withdrawals of troops could only have been carried out in the face of serious threat to our remaining troops in Vietnam.

We would have confronted an adversary emboldened by our timidity, an adversary who had ignored repeated warnings.

The war would be a good deal further from over than it is today.

Had we stood by and let the enemy act with impunity in Cambodia—we would be facing a truly bleak situation.

The allied operations have greatly reduced these risks and enhanced the prospects for the future. However, many difficulties remain and some setbacks are inevitable. We still face substantial problems, but the Cambodian operations will enable us to pursue our goals with great confidence.

When the decision to go into Cambodia was announced on April 30, we anticipated broad disagreement and dissent within the society. Given the divisions on this issue among the American people, it could not have been otherwise.

But the majority of the Americans supported that decision—and now that the Cambodian operation is over, I believe there is a wide measure of understanding of the necessity for it.

Although there remains disagreement about its long-term significance, about the cost to our society of having taken this action—there can be little disagreement now over the immediate military success that has been achieved. With American ground operations in Cambodia ended, we shall move forward with our plan to end the war in Vietnam and to secure the just peace on which all Americans are united.

THE FUTURE

Now that our ground forces and our logistic and advisory personnel have all been withdrawn, what will be our future policy for Cambodia?

The following will be the guidelines of our policy in Cambodia:

1. There will be no U.S. ground personnel in Cambodia except for the regular staff of our Embassy in Phnom Penh.

2. There will be no U.S. advisers with Cambodian units.

3. We will conduct—with the approval of the Cambodian Government—air interdiction missions against the enemy efforts to move supplies and personnel through Cambodia toward South Vietnam and to re-establish base areas relevant to the war in Vietnam. We do this to protect our forces in South Vietnam.

4. We will turn over material captured in the base areas in Cambodia to the Cambodian Government to help it defend its neutrality and independence.

5. We will provide military assistance to the Cambodian Government in the form of small arms and relatively unsophisticated equipment in types and quantities suitable for their army. To date we have supplied about $5 million of these items principally in the form of small arms, mortars, trucks, aircraft parts, communications equipment and medical supplies.

6. We will encourage other countries of the region to give diplomatic support to the independence and neutrality of Cambodia. We welcome the efforts of the Djakarta group of countries * to mobilize world opinion and encourage Asian cooperation to this end.

7. We will encourage and support the efforts of third countries who wish to furnish Cambodia with troops or material. We applaud the efforts of Asian nations to help Cambodia preserve its neutrality and independence.

I will let the Asian Governments speak for themselves concerning their future policies. I am confident that two basic principles will govern the actions of those nations helping Cambodia:

They will be at the request of, and in close concert with the Cambodian Government.

They will not be at the expense of those nations' own defense—indeed they will contribute to their security which they see bound up with events in Cambodia.

The South Vietnamese plan to help. Of all the countries of Southeast Asia, South Vietnam has most at stake in Cambodia. A North Vietnamese takeover would, of course, have profound consequences for its security. At the same time, the leaders of South Vietnam recognize that the primary focus of their attention must be on the security of their own country. President Thieu has reflected these convictions in his major radio and TV address of June 27. Our understanding of Saigon's intentions is as follows:

1. South Vietnamese forces remain ready to prevent reestablishment of base areas along South Vietnam's frontier.

2. South Vietnamese forces will remain ready to assist in the evacuation of Vietnamese civilians and to respond selectively to appeals from the Cambodian Government should North Vietnamese aggression make this necessary.

3. Most of these operations will be launched from within South Vietnam. There will be no U.S. air or logistics support. There will not be U.S. advisers on these operations.

4. The great majority of South Vietnamese forces are to leave Cambodia.

5. The primary objective of the South Vietnamese remains Vietnamization within their country. Whatever actions are taken in Cambodia will be consistent with this objective.

In this June 27 speech President Thieu emphasized that his government will concentrate on efforts within South Vietnam. He pledged that his country will always respect the territory, borders, independence and neutrality of Cambodia and will not interfere in its internal politics. His government does not advocate stationing troops permanently in Cambodia or sending the South Vietnamese army to fight the war for the Cambodian army.

Under the foreign policy guidelines first outlined at Guam a year ago, I stressed that a threatened country should first make maximum efforts in its own self-defense. The Cambodian people and soldiers are doing that against the superior force of the North Vietnamese and Viet Cong invaders. The majority of the Cambodian people support the present government against the foreign intruders. Cambodian troops have remained loyal and have stood up well in the face of great pressures from a better-armed and experienced foe.

Secondly, our policy stresses there should be regional cooperation where a country is

* Australia, Indonesia, Japan, Korea, Laos, Malaysia, New Zealand, The Philippines, Singapore, South Vietnam, Thailand.

not strong enough to defend herself. Cambodia's neighbors are providing that cooperation by joining with her in a collective effort. Each of them is a target of Communist aggression; each has a stake in Cambodia's neutrality and independence.

Third, the U.S. will assist such self-help and regional actions where our participation can make a difference. Over the long term, we expect the countries of Asia to provide increasingly for their own defense. However, we are now in a transitional phase when nations are shouldering greater responsibilities but when U.S. involvement, while declining, still plays an important role.

In this interim period, we must offset our lower direct involvement with increased military and economic assistance. To meet our foreign policy obligations while reducing our presence will require a redirection—both quantitatively and qualitatively—in our assistance program.

Prince Sihanouk wrote in December 1969 about the Communist threat to his country and the balance presented by American forces in Southeast Asia. In a generally anti-American article in the official Cambodian Government Party newspaper he stated:

"On the diplomatic and political plane, the fact that the U.S. remains in our region and does not yet leave it allows us maneuverings . . . to assure on the one hand our more than honorable presence in the concert of nations . . . this presence (and this is an irony of fate for the anti-imperialists that we are) is an essential condition for the 'respect', the 'friendship' and even for the aid of our socialist 'friends.' When the U.S. has left these regions, it is certain that the Cambodia of the Sangkum will be the objective of the shellings of the heavy Communist guns: unfriendliness, subversion, aggressions, infiltrations and even occupations."

THE SEARCH FOR PEACE

In our search for a lasting peace in Southeast Asia, we are applying the three basic principles of our foreign policy which are set forth in the Foreign Policy Report to Congress last February: partnership, strength and willingness to negotiate.

The partnership of our Vietnamization Program and of our support for regional defense efforts.

The strength of our action against the Communist bases in Cambodia and the steadfastness of the American people to see the war through to an honorable conclusion.

The willingness to negotiate expressed in our generous proposals for a settlement and in our flexibility once Hanoi agrees to serious negotiations.

All three elements are needed to bring peace in Southeast Asia. The willingness to negotiate will prove empty unless buttressed by the willingness to stand by just demands. Otherwise negotiations will be a subterfuge for capitulation. This would only bring a false and transitory peace abroad and recrimination at home.

While we search for genuine negotiation we must continue to demonstrate resolution both abroad and at home and we must support the common defense efforts of threatened Asian nations.

To the leaders in Hanoi, I say the time has come to negotiate. There is nothing to be gained in waiting. There is never an ideal moment when both sides are in perfect equilibrium.

The lesson of the last two months has reinforced the lessons of the last two years—the time has come to negotiate a just peace.

In Cambodia, the futility of expanded aggression has been demonstrated. By its actions in Cambodia, North Vietnam and the Viet Cong provoked the destruction of their sanctuaries and helped to weld together the independent states of Southeast Asia in a collective defense effort, which will receive American support.

The other side cannot impose its will through military means. We have no intention of imposing ours. We have not raised the terms for a settlement as a result of our recent military successes. We will not lower our minimum terms in response to enemy pressure. Our objective remains a negotiated peace with justice for both sides and which gives the people of South Vietnam the opportunity to shape their own future.

With major efforts the North Vietnamese can perhaps rebuild or readjust Cambodia supply areas over a period of months. They can pursue their war against South Vietnam and her neighbors. But what end would a new round of conflict serve? There is no military solution to this conflict. Sooner or later, peace must come. It can come now, through a negotiated settlement that is fair to both sides and humiliates neither. Or it can come months or years from now, with both sides having paid the further price of protracted struggle.

We would hope that Hanoi would ponder seriously its choice, considering both the promise of an honorable peace and the costs of continued war.

We repeat: all our previous proposals, public and private, remain on the conference table to be explored, including the principles of a just political settlement that I outlined on April 20.

We search for a political solution that reflects the will of the South Vietnamese people, and allows them to determine their future without outside interference.

We recognize that a fair political solution should reflect the existing relationship of political forces.

We pledge to abide by the outcome of the political process agreed upon by the South Vietnamese.

For our part, we shall renew our efforts to bring about genuine negotiations both in Paris and for all of Indochina. As I said in my address last September to the United Nations General Assembly:

"The people of Vietnam, North and South alike, have demonstrated heroism enough to last a century . . . The people of Vietnam, North and South, have endured an unspeakable weight of suffering for a generation. And they deserve a better future."

We call on Hanoi to join us at long last in bringing about that better future.

Significant enemy losses in Cambodia [1]

Ammunition: [2]	
Machinegun rounds	4,067,177
Rifle rounds	10,694,990
Total small arms (machinegun and rifle rounds)	14,762,167
Antiaircraft rounds	199,552
Mortar rounds	68,539
Large rocket rounds	2,123
Small rocket rounds	43,160
Recoilless rifle rounds	29,185
Grenades	62,022
Mines	5,482
Weapons:	
Individual	22,892
Crew served	2,509
Food:	
Rice (lbs.)	14,046,000
Man-months of rice	309,012
Total food (lbs.)	14,518,000
Facilities: Bunkers/structures destroyed	11,688
Transportation:	
Vehicles	435
Boats	167
Examples of other equipment:	
Radios	248
Generators	49
Total communications equipment (lbs.)	58,600
Miscellaneous explosives (lbs.) (including 1,002 satchel charges)	83,000
Medical supplies (lbs.)	110,800
Documents (lbs.)	12,400
Personnel:	
Enemy KIA	11,349
POW's (includes detainees)	2,328

[1] As of June 29, 1970, based on latest available data from the field—subject to change.

[2] Figures do not include 70 tons of assorted ammunition.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS—1971

Mr. KENNEDY. Mr. President, I move that the Senate proceed to the consideration of Calendar No. 987, H.R. 17619, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. MONTOYA). The bill will be stated by title.

The BILL CLERK. A bill (H.R. 17619) making appropriations for the Department of the Interior and related agencies for the fiscal year ending June 30, 1971, 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 Appropriations with amendments.

DISTRICT OF COLUMBIA APPROPRIATIONS BILL—CONFERENCE REPORT

Mr. PROXMIRE. Mr. President, earlier this afternoon the Senate and House conferees on the District of Columbia appropriations bill met and agreed on a conference report. That report has been passed by the House of Representatives and is now pending in the Senate. We had hoped to be able to take that matter up before midnight so that we could have passed and enacted it before the end of the fiscal year. We expected to do that, but were unable to do so, because we wanted to accommodate the Senator from Maryland (Mr. TYDINGS), who feels very strongly about a part of that bill—the deletion of funds for the subway, which we tried to save in conference, but were unable to succeed in doing so.

The Senator from Maryland wants to speak at some length on that matter. So we put over consideration of the measure until tomorrow afternoon.

I likewise call to the attention of the Senate the fact that both the Senate and House Appropriations Subcommittees felt very strongly that we should get a bill promptly so that the schools in the District and the other functions in the District of Columbia that depend on timely operations could operate as efficiently as possible.

We are this close to getting agreement to a conference report. I do hope that those Senators who obviously will feel very strongly about the deletion of the subway provision will sustain that conference report. Although we did try to keep in that provision, it was not possible.

Mr. President, I will explain the matter in some detail tomorrow.

Mr. BYRD of West Virginia. Mr.

President, will the Senator from Wisconsin yield?

Mr. PROXMIRE. Mr. President, I am very happy to yield to the distinguished Senator from West Virginia who, in my opinion, was as fine a chairman of the Appropriations Subcommittee for the District of Columbia as we have ever had. I have tried to fill in for him. It has been an honor to follow him as chairman of that committee.

Mr. BYRD of West Virginia. I thank the Senator.

Mr. President, the Senator, as chairman of this subcommittee, has performed, I think, a very extraordinary job. In my recollection this is the first time within at least the past 10 years—my memory may be faulty but I do not think it is—that the District of Columbia appropriation bill has been passed by both Houses and the conference report adopted in one of the two Houses by the end of the fiscal year.

I commend the Senator from Wisconsin on the exemplary job he has done and for the statement he is making tonight.

I share with him the wish that tomorrow the Senate will agree to the conference report.

I salute him for his diligence and for the thoughtfulness of his work, and especially for the expedition of this difficult bill. I believe this is the first year in quite a long time the bill passed the Senate without a rollcall vote.

Mr. PROXMIRE. Mr. President, I thank the Senator for his statement. The Senator is correct in that the bill did pass without a rollcall vote, and it is the first time in many years—perhaps 10 years—that the bill was passed before the end of the fiscal year and is now on the verge of being sent to the White House.

I could not be more flattered than to be commended for my diligence by the Senator from West Virginia because he is a very diligent man, as we all know.

Mr. BYRD of West Virginia. I thank the Senator.

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

By unanimous consent, the following additional routine business was transacted:

EXECUTIVE REPORT OF A COMMITTEE

As in executive session, the following favorable report of a nomination was submitted:

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

William J. Bauer, of Illinois, to be U.S. attorney for the northern district of Illinois.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

H.R. 17711. An act to amend the District of Columbia Cooperative Association Act (Rept. No. 91-995).

By Mr. SPARKMAN, from the Committee on Banking and Currency, without amendment:

S. 3366. A bill to make bank in American Samoa eligible for Federal deposit insurance under the Federal Deposit Insurance Act, and for other purposes (Rept. No. 91996).

ADDITIONAL COSPONSOR OF A CONCURRENT RESOLUTION

S. CON. RES. 73

Mr. BELLMON. Mr. President, I ask unanimous consent that, at the next printing, the name of the Senator from Idaho (Mr. JORDAN) be added as a cosponsor of Senate Concurrent Resolution 73, establishing a joint congressional committee to carry out a study and investigation of the Federal Meat Inspection Act.

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

INDEPENDENT OFFICES APPROPRIATIONS, 1971—AMENDMENT

AMENDMENT NO. 755

Mr. JAVITS. Mr. President, I have joined with Senators CASE, MONDALE and PROXMIRE in a bipartisan effort to reduce the appropriations for the National Aeronautics and Space Administration—NASA—and to eliminate funds from this year's appropriation for the design and definition of a space shuttle/station, so that the Nation is better able to concentrate its resources and efforts on the many critical domestic needs which must be met at this time.

Accordingly, I submit for myself and Senators CASE, MONDALE and PROXMIRE, an amendment intended to be proposed by me to reduce the appropriations for NASA by $600 million, with discretion in the agency to spread the reduction among the various projects to be carried out.

We have no real choice—I wish we did. Larger expenditures are needed to make significant steps toward solving the problems of housing education, poverty, environment and crime control. In order to make available the necessary funds to meet these domestic needs, priorities will have to be reordered and, for the moment, the funding of our space program should be reexamined and redirected.

Over the past 10 years, $25 billion has been spent on the Apollo program, which achieved much earlier success than had been anticipated. Now, however, six additional lunar landings are still to be attempted, even though many space experts have questioned the value of manned, rather than unmanned, flights for exploratory purposes. NASA has not made a convincing case for carrying out these additional flights right now and the availability of the additional hardware for the flights—mainly the Saturn rocket—seems to be the main reason for continuing the flights through 1974.

President Nixon in his March 7, 1970, statement about the space program, called for a definition of new goals for the seventies, and also called for a recognition that many critical problems here on earth make high priority demands on our attention and resources. I agree with the President's objectives. The space program should be continued so that scientific advances will be made; but, the timing is right and our resources should be directed to other programs to a proportionally greater degree right now.

To achieve the reordering of priorities which is so necessary, I previously joined with my colleagues in asking the Senate Appropriations Subcommittee for Independent Offices and Department of HUD to reduce the House appropriation for NASA by approximately 20 percent and to eliminate funds for the design and definition of the space shuttle/station. Unfortunately, the committee acted to increase the appropriation for NASA to $3,319,303,000, which is $122,303,000 over the House figure. In addition, funds for the space shuttle/station were not deleted, even though there are doubts, documented by Senator MONDALE and by Congressman KARTH, chairman of the House Subcommittee on Science and Astronautics, about starting a program which could cost $14 billion for development and could eventually cost $50 to $100 billion if expanded to a Mars landing program, as expected.

In view of the unfavorable actions taken by the Appropriations Committee, I am offering the amendment for a $600 million cut in NASA appropriations and am supporting the amendment to delete funds for the space shuttle/station.

I do not believe a reduction of this magnitude will cripple the space program. However, it will require a hard look at existing and future programs to ascertain what is absolutely essential at this time, and what can be delayed or eliminated. We must demonstrate that Congress is willing to place a much greater emphasis on the critical, immediate needs here at home before giving priority to the pursuit of other planets. When the entire appropriation approved by the Senate Committee for Housing and Urban Development, which administers a nationwide housing program, is only $2 million greater than the appropriation for NASA, there is something wrong in the allocation of resources apportioned to national problems and their exigencies. The amendment which I submit and the amendment relating to the space shuttle/station seek to change this, and I hope that the Senate will support them.

I ask unanimous consent that the amendment be printed and lie on the table.

The PRESIDING OFFICER (Mr. ALLOTT). The amendment will be received and printed, and will lie on the table.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENT

AMENDMENT NO. 756

Mr. WILLIAMS of New Jersey. Mr. President, on behalf of myself, the Senator from Indiana (Mr. HARTKE), the Senator from Maine (Mr. MUSKIE), the Senator from Michigan (Mr. HART), and the Senator from Missouri (Mr. EAGLETON). I submit an amendment to H.R. 17550 to make further improvements in the 1970 social security bill passed by the House of Representatives.

While I welcome the action taken by the House, additional major reforms are

still urgently needed to improve this vital, but essential program.

In my floor statement a couple of weeks ago, I listed several essential improvements which should be adopted by the Senate to perfect the House bill.

The amendment I submit today implements those recommendations.

The 5-percent across-the-board increase authorized by the House, although badly needed by the elderly, will not become effective until January 1971.

However, our cost-of-living is rising at an annual rate of around 6 or 7 percent, the most rampant inflation in nearly 20 years.

And, there appears to be no end in sight.

Unfortunately, persons living on limited, fixed incomes are usually hurt the most during a period of rapid inflation.

At this present rate of inflation, the 5-percent raise would be nullified even before a social security beneficiary receives his first check reflecting this increase—in February 1971.

My amendment would help to prevent elderly persons from losing their desperate race with inflation by raising benefits by 10 percent in January 1971, instead of 5 percent.

Moreover, an additional 20 percent increase would be authorized for January 1972.

Thereafter, benefits would be automatically adjusted for corresponding raises in the cost of living.

H.R. 17550 provides for a similar adjustment mechanism, but would go into effect only after today's inadequate benefits had been raised by only 5 percent.

While I enthusiastically support provision for an automatic adjustment mechanism to keep social security current with rising prices, I believe that benefits must be raised to a more realistic level than provided in the House bill before this automatic escalator is employed.

With the adoption of these proposed increases, our social security system would be much more responsive to the rising income needs of the aged of today and tomorrow.

In addition, older persons would not find themselves locked in at inadequate benefit levels.

Major revision is also needed for recipients of minimum benefits. Presently, the minimum monthly benefit for a single person is $64.

A 5-percent raise, as proposed by the House, would raise the minimum by only $3.20 a month—to $67.20.

This will amount to $806.40 in annual income, less than one-half of the $1,700 poverty threshold for a single person.

Today, there are about 5 million senior citizens living in poverty. And, many did not become poor until they became old.

Because of the prevalence and persistence of poverty among the aged, substantial increases in minimum benefits are urgently needed.

My amendment would raise the minimum monthly benefit to $90 by January 1971 and to $120 by January 1972.

Raising the minimum to $90 could remove an estimated 2.1 million individuals from poverty—nearly 1.4 million persons 65 and older and another 700,000 under 65.

One significant change made in the House bill was a liberalization of the earnings test. Under present law, an individual under 72 years of age may earn up to $1,680 in annual income before his benefits are reduced.

H.R. 17550 raises this amount to $2,000.

This is certainly a step in the right direction, but I propose that it be raised to $2,100. For earnings in excess of $2,100, $1 in benefits would be withheld for each $2 of earnings.

This additional $100, I believe, will be especially helpful to elderly persons who must work to supplement their social security.

Moreover, the added cost of this proposed increase will be very modest.

Although medicare has brought peace of mind to millions of aged persons, major reforms are still needed.

Medicare now covers only about 45 percent of all health costs of the elderly. Consequently, the threat of costly and catastrophic illness is still too real for many senior citizens.

One major gap in coverage is out-of-hospital prescription drugs. Too often older Americans are confronted with this vexing problem: Shall we buy food for the table or shall we purchase the drugs needed to maintain our health? Too often, both needs suffer irreparably.

Drug expenditures for persons 65 and older average three times higher than those for other Americans.

A 1968 estimate reveals that approximately 40 percent of all elderly persons had drug expenditures of $50 or more, and about 20 percent had expenditures in excess of $100.

For aged persons with severe chronic conditions—about 15 percent of all elderly individuals—prescription expenses are six times as great as for younger people.

To provide relief for this major expenditure, my amendment would extend medicare coverage to out-of-hospital prescription drugs.

Several renowned experts in the field of health care have already recognized the need for action in this area.

For instance, a task force established by the Secretary of Health, Education, and Welfare in 1967 reported last year that "there is a need for an out-of-hospital drug insurance under medicare." In a working paper prepared for the Senate Committee on Aging, a similar conclusion was reached.

Another substantial health expenditure for the elderly is the premium charge for supplementary medical insurance—part B—of medicare.

Presently, this amounts to $4 per month, but it is scheduled to increase to $5.30 in July.

For an elderly couple, this means that their annual premiums will be raised from $96 to $127.20.

For the great majority of older Americans who live on very low incomes, this expenditure represents a heavy financial burden.

My amendment would eliminate the premium cost for the elderly. Instead, financing for supplementary medical insurance—like the part A hospital insurance—would be provided from payroll taxes and a matching contribution by the Federal Government.

Another gap in medicare coverage concerns dentures, hearing aids, and eye glasses.

It is estimated that about 50 percent of all persons 65 and older have lost their teeth.

One reason is that half of them have not seen a dentist in more than 5 years. In many instances, limited financial resources prevent them from having their teeth checked periodically.

Likewise, eye and ear problems constitute a major expenditure for the aged, and affect them disproportionately in comparison with other groups.

Several studies have revealed that elderly persons have the greatest need for eye and ear care, and the least ability to pay for this treatment because of their limited income.

Another major area of needed reform is provision for well-timed and well-conceived use of general revenues to finance a portion of the social security and medicare programs.

Our present method of relying on payroll taxes leaves much to be desired.

It places a regressive tax on the Nation's workers. Individuals with low earnings pay a proportionately larger share of their total wages than do higher paid individuals.

Moreover, it lacks the built-in flexibility of the more progressive individual income tax.

Use of general revenues would help to correct these existing deficiencies and would also provide a more equitable basis for financing part of the costs of medicare and social security.

Moreover, based upon the sound growth of our economy and the social security and medicare trust funds, both programs can be strengthened and improved markedly to meet the income and health needs of the elderly of today and tomorrow more effectively than they are now.

In addition, my amendment would make other needed changes, including:

Liberalizing the eligibility requirements for disability benefits;

Extensions of medicare coverage to disabled social security beneficiaries under age 65; and

Revising the method for computation of social security benefits.

Therefore, I urge prompt and favorable consideration of this amendment.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed, and appropriately referred.

The amendment (No. 756) was referred to the Committee on Finance.

Mr. HARTKE. Mr. President, Senator WILLIAMS of New Jersey and I today submit amendments to H.R. 17550. These amendments constitute a basic program for improving the presently woefully inadequate social security system. The present system has lost touch with the changing income needs of the people it was meant to serve. The gap between the incomes of members of the labor force and those in retirement has steadily

widened in recent years. In 1961, the median income of families with an aged head was 51 percent of the average for younger families. By 1967, the median had fallen to 46 percent of the average for younger families.

This precipitous drop in income upon reaching retirement age cuts many individuals off from the mainstream of American society. Early retirement and unemployment among the 60 to 64 population creates new problems. The plight of older people living alone or with nonrelatives, nearly half of whom have incomes below $1,500, is the shame of our Nation. We cannot turn our backs any longer on those Americans who are spending their last years in deprivation and loneliness. There is an urgent need to completely overhaul the present system in order to remove 5 million impoverished elderly from poverty and to modernize payments for all, young and old, who benefit from the system.

Now, in addition to the old inequities, a new danger stalks our senior citizens. That specter is inflation, and as long as the administration is dedicated to a policy of inaction, it will continue to eat away at the savings and pensions of the elderly. Inflation makes a mockery of the attempts of the Congress to better provide for our older citizens. The House-passed bill calls for a 5 percent across-the-board bill increase to be effective January 7, 1971. With the cost of living skyrocketing upward at an annual rate of 6 percent, this increase will leave the recipient no better off than before. To give relief from inflation, the legislation we offer today would provide for an across-the-board increase in benefits of 10 percent to be effective January 1971, with an additional increase in the general benefit levels of 20 percent by January 1972.

Furthermore, the minimum benefit level would be raised from the present $64 a month, not to $67.20 as in the House-passed bill, but to $90, a level which would bring the individual almost up to the poverty line. As the President's Task Force on Aging states:

> It is no longer economically necessary or socially acceptable for millions of Americans to live in poverty because they are old.

Low income in old age is not a transitional problem that given present trends, will disappear in time. Only the substantial increases that we propose today will help the elderly achieve a decent standard of living.

Another feature of our proposal is an increased liberalization of the earnings test. The present earnings limitation of $1,680 hurts most those people with low incomes. We propose that it be raised to $2,100. In addition, our amendment would provide for automatic adjustment of the annual exempt amount of earnings under the retirement tests, so that inflation would be prevented from nullifying this reform as well.

While medicare has been a boon to our senior citizens, even today it covers less than half of all health care expenditures for the aged. Yet, as the trend toward increasing numbers of the very old aged progresses, the health problems faced by the elderly also mount. In 1968, 40 percent of all elderly persons had drug expenditures of $50 or more. I believe it is time to bring out-of-hospital prescription drugs within the scope of the medicare program. Drugs constitute almost 30 percent of private expenditures for health care. Because out-of-hospital drugs are not presently covered under medicare, some hospital stays are extended solely so that patients can obtain needed medication. The promise and protection of the medicare program will also be enhanced by the inclusion of the costs of dentures, hearing aids, and eye glasses; items whose expense often puts them beyond the reach of those who need them most.

Premium payments for medicare part B—soon to go from $4 to $5.30 a month—continue to limit and deny adequate health protection to the elderly. Under our bill these premiums will be abolished; both hospital and medical insurance programs will be provided through employer payroll contributions and matching contributions by the Federal Government.

This legislation further provides for a more equitable treatment of disabled workers. The eligibility requirements for disability benefits would be liberalized and medicare coverage extended to disabled social security beneficiaries under age 65.

Turning to another area, it is my pleasure to join with the distinguished Senator from New Jersey (Mr. WILLIAMS) in supporting legislation which would alter the method by which social security benefits are computed. Under the approach offered by Senator WILLIAMS social security benefits would be figured on the basis of a worker's highest 10 years of earnings. Certainly this is an approach which would go far to eliminate the inequities which are so obvious in the benefit computation process today. However, I would also like to make reference to a proposal which is not as far-reaching as Senator WILLIAMS' but which I believe also has much to recommend it.

On October 15, 1969, I introduced on behalf of Senator Williams and a group of 17 bipartisan cosponsors S. 3035 which would also work changes in the method by which benefits are computed.

I am pleased that H.R. 17550, the House-passed legislation, includes the concept contained in S. 3035 which provides that benefits for men should be figured on the basis of taxable income received until age 62 rather than age 65 as is now the law. The age 62 cutoff basis applies already to female workers and it is only fair that the same age be used for men.

However, the House bill does not include a provision found in S. 3035 which I believe is of even greater importance if substantial equity is to be achieved. Under the present law, the 5 lowest wage earning years are dropped out when social security benefits are computed. Benefits are then calculated on the basis of all other years in the computation period, which ordinarily extends from the year 1951 to such time as the worker becomes eligible for benefits. Thus, the worker who chooses to retire on a company pension plan at age 55, after spending 30 years in the work force, will very likely have 5 or more years of no, or very low income, figured against him when the time comes to compute his benefits, since the 5 dropout years presently provided would not cover the entire 10-year period between his date of initial retirement and his 65th birthday.

S. 3035 would enable the 55-year-old retiree in my example, to avoid any penalty as the result of his early retirement. Under it individuals having 10 or more years of social security coverage would receive an additional drop-out year for every 40 quarters of additional coverage. For example, an employee who elects to retire after spending 30 years in the covered work force would be entitled to 2 additional dropout years. The worker who has spent 40 years in covered employment would receive three additional years.

Thus the effect of the device for increasing the number of dropout years, coupled with the House-approved provision for reducing from age 65 to age 62 the cutoff provision for men, would be to substantially reform the current method of computation.

I will shortly introduce S. 3035 as an amendment to H.R. 17550 so that the Finance Committee may have both Senator WILLIAMS' "high 10" amendment and my provision before it when it considers the House-passed measure.

Lastly, this legislation takes the first step toward rectifying the inequity of the payroll tax. Progressive taxation is a principle long accepted in this country, yet the payroll tax is by nature regressive. Individuals with low incomes pay a larger portion of their total wages than more highly paid workers. The payroll tax is another example of Government policies canceling each other out. On the one hand, we all desire to remove the blight of poverty from our land. On the other, we collect over $1.5 billion a year in payroll taxes from families whose incomes are beneath the poverty line. Use of general revenues to finance a portion of the social security and medicare programs would help to correct these deficiencies.

One of the marks of a country's greatness is how it treats its elderly citizen. To date, treatment of older Americans is not worthy of our greatness. I know we can do better. I hope that Congress will take the steps necessary to reaffirm this country's concern for our senior citizens.

DEPARTMENT OF THE INTERIOR APPROPRIATIONS, 1971—AMENDMENT

AMENDMENT NO. 757

Mr. HARRIS. Mr. President, I submit an amendment intended to be proposed by me to H.R. 17619, the Interior appropriations bill, when it is called up for consideration.

This amendment would restore $585.-000, approved by the House of Representatives, for a boys' dormitory at the Eufaula Indian Boarding School in Eufaula, Okla.

In the late 1950's, dormitory facilities at Eufaula were destroyed by fire. There was partial reconstruction, but, due to a lack of funds, total reconstruction has not been finally completed. It is for this purpose that these funds are needed.

The students living at Eufaula Indian Boarding School attend the public schools at Eufaula, Okla., a practice I strongly approve.

When other opportunities for education can be provided for them closer to home, Indian children, as I have often said, should not be sent far away from their own people to go to boarding schools. But the facility here in question serves the vital needs of the Indian children of the area in which it is located, housing orphans, Indian children from broken homes, and Indian children in nearby areas where transportation on a daily basis presents difficulties.

The funds allowed in this amendment are vitally needed if the Indian children are to have proper care and attention to their living needs while attending school.

Mr. President, I ask that this amendment lie at the desk and be printed and that it also be printed in the RECORD at the conclusion of my remarks.

I hope that this amendment will be adopted by the Senate when it is called up in connection with the consideration of H.R. 17619, the Interior appropriations bill.

The PRESIDING OFFICER (Mr. CRANSTON). The amendment will be received and printed and will lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment (No. 757) is as follows:

AMENDMENT NO. 757

On page 6, line 9, strike out "$18,800,000" and insert in lieu thereof "$19,385,000".

On page 7, line 5, immediately before the period, insert a colon and the following: "provided further that not to exceed $585,000 be used for a boys' dormitory, Eufaula Indian Boarding School, Oklahoma."

INDEPENDENT OFFICES APPROPRIATIONS, 1971—AMENDMENT

AMENDMENT NO. 758

Mr. GOODELL submitted an amendment, intended to be proposed by him, to the bill (H.R. 17548) making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1971, and for other purposes, which was ordered to lie on the table and to be printed.

DEPARTMENT OF AGRICULTURE APPROPRIATIONS, 1971—AMENDMENT

AMENDMENT NO. 759

Mr. GOODELL submitted ar amendment, intended to be proposed by him, to the bill (H.R. 17923) making appropriations for the Department of Agriculture and related agencies for the fiscal year ending June 30, 1971, and for other purposes, which was ordered to lie on the table and to be printed.

THE BEGINNING OF A BREAK?

Mr. GRIFFIN. Mr. President, a few days ago there was an indication from Paris that the North Vietnamese Government had finally officially admitted to the presence of its armed forces in South Vietnam. It did this by agreeing to the return of certain North Vietnamese Army personnel held captive by the Army of South Vietnam.

This is the first time Hanoi has ever recognized the fact that it has been committing armed aggression against its neighbor to the south. Call it what you will, invasion, civil war or rebellion, the fact remains that, by all precedent, soldiers carrying out in a lawful way the dully constituted orders of their lawful superiors have traditionally, and by all international law, always been accorded the rights of belligerents.

A particular case in point is our Civil War, in which, from the very outset, soldiers on both sides were treated humanely.

Mr. President, let us hope this is the beginning of a break in the grieviously unjust situation regarding our prisoners of war held by Hanoi which has existed heretofore.

FURTHER ACTION ON HUNGER AND MALNUTRITION

Mr. JAVITS. Mr. President, last week I wrote to President Nixon urging him to submit an additional request of $200 million to the Congress for free and reduced-cost meals under the National School Lunch Act.

I am pleased that the President announced that he is submitting—today—to the Congress a budget amendment of $217 million additional for the school lunch program.

As the ranking Republican on the Select Committee on Nutrition and Human Needs, I was concerned that the $200 million appropriated by the House Subcommittee on Agricultural Appropriations was insufficient to meet the needs under the recently enacted school lunch legislation, signed into law by the President as Public Law 91–248 on May 14.

Also H.R. 5554, which would extend the authorization for the special milk program, was allowed by the President to become law today. I understand the President's concern for holding down spending; however, until all of the Nation's needy children are reached with free or reduced-price lunches, pursuant to the administration's commitment, I feel that we should provide such children at least with milk.

I commend the President, and particularly the Department of Agriculture for its continued efforts and progress in eliminating hunger.

I ask unanimous consent to have printed in the RECORD today's press release from the San Clemente White House, announcing the $217 million additional budget request.

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

STATEMENT BY THE PRESIDENT

Eleven days ago, the Congress sent to me H.R. 5554, which would extend the authorization for the special milk program. I have not signed this measure. But, today—without my signature—it becomes law.

H.R. 5554 authorizes appropriations of $120 million in Fiscal Year 1971 and subsequent years. The Administration's 1971 budget did not include funds for this program. In a special message to the Congress February 26, 1970, I urged that this and similar lower-priority Federal subsidy programs be discontinued. As I said then, no time-honored program is sacrocanct if it cannot be justified on the grounds of high priority.

The funds authorized in H.R. 5554 subsidize the purchase of milk, in the great majority of cases subsidizing families able to pay the full cost. Less than 10 percent of the milk served goes to children from poverty families.

I am mindful of the vital importance of milk for all of our schoolchildren and also of the genuine need to keep our dairy industry strong. But I firmly believe the major portion of the funds authorized in this bill should have been authorized for more effective nutritional programs to benefit children from poor families and on a basis which includes milk as part of the balanced, nutritious school lunch program.

I have already acted on this conviction. On May 14, 1970, I signed into law H.R. 515 which improved the National School Lunch Act and the Child Nutrition Act. The effect of this legislation is to assure that every child from a family whose income falls below the poverty line will receive a free or reduced-price lunch. These lunches include milk.

To properly fund this legislation, a budget amendment of $217 million additional is being transmitted to the Congress today for the school lunch and child nutrition programs in fiscal 1971, bringing the total Federal funding for these programs to $900 million. That amount is by no means the whole story of this Administration's determined efforts to eliminate hunger and malnutrition in America. Total requests for food assistance programs in fiscal '71 exceed $2.5 billion, more than twice the amount expended on these programs two years ago and $900 million more than I requested and obtained last year.

Thus there should be no doubt about this Administration's commitment to the fight against hunger. If this effort is to be successful, it must be carried on in a way that is clearly recognized as responsible. We must avoid wasting the taxpayers' money on overlapping and unnecessary programs. Therefore, it should be clearly understood that whatever funds I use from this program I intend to use for the school lunch and child nutrition and milk programs for children from poverty families, and not for those who are in no need of such a subsidy. I have allowed this measure to become law with these objectives in view.

In its future actions on spending, I urge the Congress to join me in the constant and crucial effort to hold down Federal spending and prevent another wave of inflation.

ADJOURNMENT TO 9 A.M. TODAY

Mr. KENNEDY. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 9 o'clock this morning.

The motion was agreed to; and (at 12 o'clock and 21 minutes a.m., Wednesday, July 1, 1970) the Senate adjourned until today at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 30, 1970:

U.S. MARSHAL

Charles W. Koval, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania for the term of 4 years, vice Anthony J. Furka, term expired.