to stop air piracy; to the Committee on Foreign Affairs.

By Mr. HANLEY:

H. Res. 1203. Resolution designating January 22 of each year as Ukrainian Independence Day; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BELL of California:

H.R. 19103. A bill for the relief of Mr. and Mrs. Francisco de Paula Baptista and Joao Baptista; to the Committee on the Judiciary.

By Mr. BERRY:

H.R. 19104. A bill for the relief of the estate of Vesta A. Habicht; to the Committee on the Judiciary.

By Mr. BROYHILL of Virginia (by request):

H.R. 19105. A bill for the relief of M. Sgt. Robert M. Stachura; to the Committee on the Judiciary.

By Mr. BURTON of California:

H.R. 19106. A bill for the relief of Miguel Angel Ortiz; to the Committee on the Judiciary.

H.R. 19107. A bill for the relief of Silvia Italia Vassallo-Pastor; to the Committee on the Judiciary.

By Mr. HELSTOSKI:

H.R. 19108. A bill for the relief of Rita Swann; to the Committee on the Judiciary.

By Mr. McCLURE:

H.R. 19109. A bill for the relief of Alfonso Guerricabieta; to the Committee on the Judiciary.

H.R. 19110. A bill for the relief of Esther Catherine Milner; to the Committee on the Judiciary.

By Mr. MATHIAS:

H.R. 19111. A bill for the relief of Mrs. Gloria Vazquez Herrera; to the Committee on the Judiciary.

By Mr. MORSE:

H.R. 19112. A bill for the relief of Denise Korbani; to the Committee on the Judiciary.

By Mr. MYERS:

H.R. 19113. A bill to provide for the free entry of a 61-note cast bell carillon and a 42-note subsidiary cast bell carillon for the use of Indiana University, Bloomington, Ind.; to the Committee on Ways and Means.

By Mr. NELSEN:

H.R. 19114. A bill for the relief of Kyu Whan Whang and spouse, nee Young Won Lee; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

433. By the SPEAKER: A memorial of the 10th Guam Legislature, relative to the statute of limitations with respect to claims by the citizens of Guam arising from the taking of private property by the Federal Government following World War II; to the Committee on Interior and Insular Affairs.

434. Also, a memorial of the Senate of the State of California, relative to the protection of the Farallon Islands; to the Committee on Merchant Marine and Fisheries.

435. Also, a memorial of the Legislature of the State of California, relative to water pollution; to the Committee on Public Works.

436. Also, a memorial of the Senate of the Commonwealth of Massachusetts, relative to oil imports; to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

571. By Mr. BOW: Petition of the Youngstown City Council approving and endorsing the efforts of Congressman Frank T. Bow to rename the West Branch Reservoir on the Mahoning River the Michael J. Kirwan Dam and Reservoir; to the Committee on Public Works.

572. By the SPEAKER: Petition of the Executive Board, Oil, Chemical, and Atomic Workers International Union AFL–CIO, Denver, Colo., relative to expenditure of public funds for development of the supersonic transport; to the Committee on Appropriations.

573. Also, petition of the Honorable Robert J. Lagomarsino, California State Senate, Sacramento, relative to open-pit mining in the Los Padres National Forest; to the Committee on Interior and Insular Affairs.

574. Also, petition of the Congress of Micronesia, Saipan, Mariana Islands, relative to relations between the United States and Micronesia; to the Committee on Interior and Insular Affairs.

575. Also, petition of Orville L. Cain, Grass Valley, Calif., relative to redress of grievances; to the Committee on Internal Security.

576. Also, petition of the Honorable John F. McCarthy, California State Senate, Sacramento, relative to control of news media in a market area; to the Committee on Interstate and Foreign Commerce.

577. Also, petition of the American Bar Association, Chicago, Ill., relative to observing an annual national holiday entitled "Family Day USA"; to the Committee on the Judiciary.

578. Also, petition of Barry Dale Holland, Portsmouth, Va., relative to lowering the voting age to 18; to the Committee on the Judiciary.

579. Also, petition of Elizabeth B. Smith, Atlanta, Ga., relative to appointment of Justices of the Supreme Court; to the Committee on the Judiciary.

580. Also, petition of Robert E. Williams, Forest Heights, Md., relative to redress of grievances; to the Committee on the Judiciary.

581. Also, petition of the Association of Midwest Fish and Game Commissioners, Denver, Colo., relative to resolutions adopted by the association concerning various matters that affect fish and game; to the Committee on Merchant Marine and Fisheries.

582. Also, petition of the Washington State Sportsmen's Council, Vancouver, Wash., relative to extending the U.S. fishery zone from 12 miles to 200 miles or to the outer edge of the Continental Shelf, whichever is greater; to the Committee on Merchant Marine and Fisheries.

583. Also, petition of the city council, Youngstown, Ohio, relative to transportation policy; to the Committee on Public Works.

584. Also, petition of the Hollywood AFL Film Council, Hollywood, Calif., relative to imported motion picture and television productions; to the Committee on Ways and Means.

585. Also, petition of the National Association of Life Underwriters, Washington, D.C., relative to the national debt; to the Committee on Ways and Means.

586. Also, petition of the town board, Ogden, N.Y., relative to Federal-State revenue sharing; to the Committee on Ways and Means.

SENATE—*Wednesday, September 9, 1970*

The Senate met at 10 a.m. and was called to order by Hon. JAMES B. ALLEN, a Senator from the State of Alabama.

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

O God, whose presence is everywhere in the universe, help us to "be still and know—to be still and know that Thou art God." Let not this voice stand between Thee and the Members of this body. Help us in this holy silence to give ear to the "still small voice" which whispers love and peace, poise and power—the presence of a friend nearer than breathing, closer than hands or feet. Enable us to hear the message too high for words, too deep for human utterance, the eternal beyond the temporal, so vivid we are made new. And hearing Thy voice may we obey it. Call us back to Thee, keep up close to Thee, lead us forward with Thee in the spirit of Thy Son who went about doing good.

We pray in His name. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication from the President pro tempore of the Senate (Mr. RUSSELL).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., September 9, 1970.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. JAMES B. ALLEN, a Senator from the State of Alabama, to perform the duties of the Chair during my absence.

RICHARD B. RUSSELL,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, September 8, 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.

AUTHORIZATION FOR THE PRINTING OF THE 71ST ANNUAL DAR REPORT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1147, Senate Resolution 452.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

The assistant legislative clerk read as follows:

S. Res. 452, authorizing the printing of the seventy-first annual report of the National Society of the Daughters of the American Revolution as a Senate document.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the resolution was considered and agreed to, as follows:

Resolved, That the seventy-first annual report of the National Society of the Daughters of the American Revolution for the year ended March 1, 1968, be printed, with an illustration, as a Senate document.

PROGRAM

Mr. MANSFIELD. Mr. President, for the information of the Senate, today is the day on which the joint leadership agreed to go on a two-shift basis.

Later this afternoon, it is anticipated that the Senate will proceed to the consideration of amendments to the Public Health Service Act, covering bills H.R. 18110, H.R. 17570, S. 3355, S. 3418; and then S. 437, a bill to eliminate the reduction in the annuities of employees or Members who elected reduced annuities.

If we dispose of these measures today, the Senate will consider the Disaster Relief Act. There will be debate on all of these bills.

Hopefully, with these and other measures out of the way by the end of the week, it is anticipated we may well get started, on Monday next, on H.R. 18546, the so-called farm bill.

This announcement is for the information of the Senate. It is a joint leadership declaration.

Mr. SCOTT. If the distinguished majority leader will yield, that is correct.

I repeat, the calendar may be called at the beginning of business following the prayer on any day.

Senators are thus on notice.

Mr. MANSFIELD. Yes. We have to serve notice the day before that that will be the case. It will be the case tomorrow, if Senators do not object.

Mr. SCOTT. I thank the distinguished majority leader.

CIVIL UNREST AND CIVIL RIGHTS

Mr. SCOTT. Mr. President, I ask unanimous consent that two editorials dealing with civil unrest and the McGovern-Hatfield amendment, plus a column on the civil rights accomplishments of the Nixon administration, be printed in the RECORD.

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

[From the Philadelphia (Pa.) Inquirer, Sept. 2, 1970]

SENATE DOES ITS DUTY

It seems to us that both proponents and opponents of the Hatfield-McGovern amendment to the military sales bill were guilty of unwarranted flights of hyperbole and exaggeration which served no good purpose.

We believe the Senate was right in defeating the amendment which would have put a Congressional limit on the Vietnam war; indeed, that it had no real choice in the matter.

It is one thing to be against the war, which many Americans are, but another thing entirely to tell the enemy that he need not exert himself, you're going to quit anyway by such-and-such a date.

Senator George McGovern (D., S.D.), one of the authors of the measure, was quoted as saying he thought, "far from causing the enemy to attack . . . it would have quite the opposite impact; it would cause him to see that we are terminating our activities and that therefore there's no reason to press an attack on American forces."

That's guesswork, and it could have been a bloody mistake if the Vietcong and North Vietnamese, seeking to score political and propaganda points, pressed even harder to prove their "superiority" over retreating Yanks.

Senator Mark Hatfield (R., Ore.), the co-author, said in his last-minute effort before the vote that to oppose his amendment, because it would hamper executive branch maneuvering, would amount to "idolatry of the Presidency and acceptance of one-man rule."

This seems equally overstated to us. President Nixon did not precipitate the war and is, as far as we can see, doing more than anyone else to date to extricate our troops honorably and safely. One need not "idolize" him to give him a chance to continue this highly desirable effort.

On the other hand, those Senators who chose to view the 55–39 defeat of the amendment as some football-field kind of "triumph" for the President—a "vote of confidence" of sweeping dimensions—might also reconsider the realities.

Thirty-nine senators—well over a third of the Senate—voted in favor of the amendment despite considerable doubts of what disastrous effects it might have; and of the 55 defeating it, many undoubtedly had serious reservations about what effects THAT might have.

All were correct, we think, in assuming that the general public wants the war over. But this was not the way. And no "magic" alternative has yet appeared.

We don't think one should be expected, high-flown oratory notwithstanding.

PUBLIC ENEMIES

Anyone who would deliberately kill or attempt to kill a policeman or a Park Guard—merely because the target is a law-enforcement officer and is representative of the forces of law and order in the community—is a public enemy without parallel.

Let there be no mistake about this: Unless there is strong community support for the guardians of law and order, there can be no lawful and orderly protection of the citizenry against criminal violence.

The outrageous attacks upon policemen and Park Guards in Philadelphia over the past few days are shocking reminders of the daily hazards confronted by law-enforcement authorities in the performance of their duties.

We extend our deepest sympathies to the families of the victims of these attacks and our prayerful wishes for a speedy and full recovery to those among the victims whose wounds were not fatal.

But to deplore and to sympathize is not enough.

We believe there has been far too much complacency, bordering on encouragement, in public attitudes toward organizations that make no secret of their hostility toward police.

When facilities are made readily available for such organizations to hold meetings, when their antipolice literature is widely circulated and viewed by some people as harmless or even humorous, the inevitable consequence is an erosion of the forces of law and order.

When revolving-door justice allows hardened criminals to be turned loose on the streets again and again, making a mockery of efforts by police to enforce the law and protect the public, the result is a weakening of the war against crime and a strengthening of the forces of lawlessness.

When the phrase "law and order" is itself held in scorn and contempt by some supposedly responsible persons, the lawless and the disorderly are inspired to ever more reckless assaults upon structures of government and democracy.

Fortunately, the police have the overwhelming and unequivocal support of the vast majority of the people. One laudable evidence of this was the heroic cooperation given to police which aided in the arrest of suspects in the latest shootings of police and Park Guards.

A story in Sunday's Inquirer by Robert S. Boyd of our Washington Bureau gave further evidence of the widespread popular support for law and order. It was pointed out that conservative and liberal politicians are trying to outdo one another in championing the law and order cause in this election year.

Politicians of every ideological stripe embrace the law and order theme for one reason: They know the people want law and order and a tougher crackdown on violence and crime.

The vociferous few who declare war on the police as a counter-attack against the war on crime are a public menace and should be dealt with accordingly.

Their crime is not against the police alone but against the entire community of law-abiding and law-respecting citizens.

NIXON COMPILES AN IMPRESSIVE LIST OF CIVIL RIGHTS ACCOMPLISHMENTS

(By Roscoe and Geoffrey Drummond)

WASHINGTON.—"By any criterion the civil rights record of the Nixon Administration is better than any of its predecessors."

Attorney General John Mitchell told this to a group of reporters at a recent breakfast interview.

Skepticism was so great that not one bothered to demand: Prove it.

We took Mitchell's statement as so challenging that it ought to be checked, not dismissed out of hand. We didn't set out to prove or disapprove it, only to look at the facts. Here is what we found:

Money—The budgets of the civil rights division of the Justice Department for the last two fiscal years of the Johnson Administration were $2.6 million and $3 million.

For the first two years of the Nixon Administration they were $4.37 million and $5.3 million.

Staff—The number of Justice Department lawyers handling civil rights cases during the last two years of the Johnson Administration was 105 and 116.

For the first two years of the Nixon Administration it was 138 and 159.

Cases—During the last fiscal year of the Johnson Administration 98 civil rights cases were filed. In fiscal 1969 the Nixon Administration filed 145 civil rights cases and in fiscal 1970, 197 cases—or double the number of civil rights cases over 1968 involving school integration, fair housing, voting rights and equal employment opportunity.

Question: Were these expanded assets—money, manpower and case load—put to significant use?

School desegregation—Prior to the 1969–70 school year only 5.2 percent or 164,273 of the 3.1 million Negro public school students in 11 Southern states had been in desegregated school systems.

At the opening of the 1970–71 school year, either as the result of court orders or voluntary agreements, 58.9 percent or 1.8 million

Negro children were in schools in desegregated systems.

More headway is imminent. As the result of new litigation plus the negotiating efforts of both Health, Education and Welfare and the Justice Department, it is a near certainty that 97 percent or all but 7000 of the 3.1 million Southern black students will, within the next month, be attending school in desegregated systems.

More than 500 districts will be desegregated this fall—half at the direction of court orders and half as the result of HEW-Justice Department negotiations.

Through aggressive negotiation and litigation, it is accurate to say that the dual school system as it existed prior to the Supreme Court decision of 1954 is being eliminated.

Philadelphia plan—This is the first coordinated federal attempt to remedy racial discrimination in construction unions where there has been extreme anti-Negro bias. It was fought by the unions and by some political liberals. It has been upheld by the courts and is opening up new job opportunities to minorities.

Housing—The civil rights division of the Justice Department is utilizing the fair housing law to open up suburban housing to low-income blacks. It has been filing a nationwide network of suits to make houses, apartments and developments available to nonwhites, to strike down obstacles to low-income housing and to prevent block-busting of stable neighborhoods by unscrupulous real-estate firms.

Assistant Attorney General Jerris Leonard, who heads the civil rights division, would undoubtedly agree that much remains to be done and that this record does not touch the racially discriminatory practices in the Northern school districts which neither the courts nor any administration has begun to deal with effectively.

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. KENNEDY. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, with statements therein limited to 3 minutes.

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

ORDER OF BUSINESS

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

HIJACKING OF AIRLINERS BY PALESTINIAN GUERRILLAS

Mr. BYRD of Virginia. Mr. President, the hijacking of three airliners by Palestinian guerrillas threatens not only the lives of the Americans and others held captive, but is a menace to the cease-fire in the Middle East so painfully negotiated over the last few months.

This situation is extremely grave.

Negotiations for the safe release of the passengers must be left to the diplomatic officials of the nations involved. Public comment on these negotiations by a U.S. Senator would contribute nothing to the solution of the problem.

However, I believe that the United States must take warning from this tragic affair. We must look ahead to see what can constructively be done to prevent future crises of this kind.

Last year the Senate overwhelmingly ratified the Tokyo Convention on hijacking of aircraft, which among other things provides that signatory governments "shall take all appropriate measures to restore control of the aircraft to its lawful commander or to preserve his control of the aircraft."

But it is obvious from the most recent hijackings that some nations may be powerless to act.

Therefore, even if all nations signed the Tokyo Convention—and they have not—it may not be an effective instrument to insure the safety of air travelers.

A Swedish security official was quoted in the press today as saying:

> There is no really effective way to stop hijackers.

I suggest that under the circumstances, the time may have come for the United States to order its own airlines to halt service to those nations who act as willing hosts to hijackers, or treat hijacking as a minor offense, or simply lack the power to prevent hijacking. As a further step, the U.S. Government might deny landing rights to the airlines that serve such nations.

I recognize the complexity of the problems involved in landing rights treaties. But at the same time, I believe that the deep concern of civilized nations over the hijacking problem would lead to adoption of similar sanctions by most other nations—if the United States takes the lead.

The safety of American citizens—and perhaps grave questions of war and peace overseas—are at stake here. Hijacking of international civil aircraft is being used for both blackmail and as an instrument to determine foreign policy.

The United States should not hesitate to act vigorously.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial entitled "The Showdown in the Desert," published in the Washington Post today.

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

THE SHOWDOWN IN THE DESERT

The grim drama being played out on the sands of the Jordanian desert is international blackmail in its basest form. The lives of scores of innocent people have been put on the auction block by a gang of vicious, desperate outlaws. What these gangsters expect to gain from this deadly exercise in ransom and threat is a renewal of the Arab-Israeli war; there is no place for rabid fanatics in a peaceful settlement. By raising their demands to include the release of 3,000 guerrillas held captive in Israel, the Palestine "liberators" made clear their purpose of increasing the pressure on the Israeli government to break the cease-fire, either before or after the ransom deadline runs out tonight.

The negotiations to release the hostages are so delicate now that no useful purpose would be served by public comment on them. Only those in close contact with them can judge the temper of the kidnapers. Those who are making that judgment for the Western nations now being blackmailed are entitled to proceed as best they can without a background of noisy advice. We only hope that in this, as in any other kidnaping, they chose wisely among the few courses of action open.

It is possible, however, to begin to plan ahead in hopes that the nations of the world can take some immediate steps to prevent any repetition of this tragic affair. The world cannot tolerate a threat of this kind to international air travel—a threat in which innocent people are pawns in a deadly international power play. There have been long negotiations and much talk in many national capitals since the wave of airplane hijackings broke out many months ago but very little concerted action. The massive dose of criminal activity that took place in one day—four planes under attack and three seized—ought to convince every nation that this outrage has gone on long enough.

The United States, in our view, should seize the initiative in this situation by ordering this country's airlines to suspend all service to and from any nation that welcomes hijackers, that treats hijacking as a minor offense, or that is unable to prevent its citizens from engaging in hijacking. At the same time, the government should deny landing rights in this country to any airline that serves such nations. This action should be taken, not so much as an economic sanction against offending nations—although there would be significant economic effects—but as a simple safety measure designed to protect American citizens.

There may be legal red tape in such a unilateral approach; international treaties governing landing rights and so on are complex affairs. But this should not be allowed to stand in the way. For one thing, surely most other civilized nations would join in such a ban since it would place the responsibility for hijacking squarely where it belongs—on those governments which have encouraged it by throwing welcoming parties for the pirates. Even if other nations did not join immediately, the United States should take the first step since its prime responsibility in this situation is the safety of its citizens and of those citizens of other countries who travel on American air carriers.

The airlines themselves can help by strengthening their security measures, although the fact that would-be pirates got aboard an El Al plane last Sunday indicates that even Israel's relatively strict precautionary measures are far from fool-proof. It may be that for a while international travelers will have to undergo the kind of scrutiny now given to visitors of prison inmates. If so the price will not be too great if it helps to prevent another showdown on the desert sand.

A PROFILE ON GEORGE SHULTZ

Mr. BYRD of Virginia. Mr. President, on Sunday, September 6, 1970, the Associated Press distributed to its member papers an excellent profile on George

Shultz, who is now director of the newly created Office of Management and Budget. As such Mr. Shultz has been described, with some accuracy I think, as "Assistant President." Most certainly his responsibilities are great. I think it is appropriate that the Associated Press should have distributed this excellent article relating to Mr. Shultz to the Sunday newspapers.

Last week I had the opportunity to spend a good bit of time with George Shultz. Prior to that time I had been impressed with him as an individual and with his service as Secretary of Labor, and I had been impressed with his testimony whenever he came before the Committee on Finance. The more I see of Mr. Shultz the more highly I think of him.

In my discussions with him in the past week I found that he is not only a man of great ability but also that he is a man who is eminently fair in his dealings with other individuals and with the great problems with which he is so closely associated.

Mr. President, I ask unanimous consent to have printed in the RECORD the Associated Press article entitled "George Shultz: Economist in Hot Spot," which was published in the Sunday papers of September 6, 1970.

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

GEORGE SHULTZ: ECONOMIST IN HOT SPOT

(By Neil Gilbride)

WASHINGTON.—George P. Shultz, the quiet man of the Nixon administration, is emerging as one of its most powerful figures in his new job of managing the federal government's vast spending programs.

The 49-year-old Shultz, who switched from secretary of labor to director of the newly created Office of Management and Budget at President Nixon's request, described the formidable job simply as "a challenge." To his wife, Helena, Nixon's entrusting the post to her husband was "a great honor."

But 10-year-old son Alex Shultz, showing signs of his father's economic training and bent for wry humor, summed up the change in jobs in more practical terms: "Less money and no cars."

"I'm an expert in taking pay cuts," Shultz grinned, and said fellow economists had kidded him about the wisdom of switching from the $60,000-a-year labor post to the $42,500 OMB post.

He also lost the big, blue limousine that goes with the labor secretary's job, though he still gets the use of a government car when he needs it.

IMPORTANT POST

Despite the pay cut, knowledgeable Washington sources in and out of government describe Shultz's new post in such terms as "assistant president" and "general manager of the United States" and "the most important new government post to be created in years."

The task is no less than trying to manage the entire range of the federal government's spending programs adding up to some $300 billion a year.

Shultz, who left the relative quiet of academic life as dean of the University of Chicago Graduate School of Business for the maelstrom of national political life, is a polite and scholarly man with a quiet sense of humor he doesn't mind turning on himself.

He likes to tell the story of his first venture into politics—leading a drive to create a new consolidated school board in Stow, Mass., when he was teaching at the Massachusetts Institute of Technology several years ago.

"The voters, in their wisdom, defeated the proposal for a regional school board—but they elected me to head the nonexistent school board as its director," he laughed.

Shultz's amiable demeanor hides a tough-minded firmness of purpose that can be surprising and disconcerting to those inclined to view him as a mild professor unversed in the rough-and-tumble of high political life.

"We're going to get some control over the cascading flow of federal expenditures," Shultz said firmly when sworn in by Nixon to the new job. "We're doing everything we can to see that each dollar expended is expended effectively."

It still is too early to say how Nixon's new effort to manage the budget in businesslike fashion will work under Shultz, but most of those who knew him believe Shultz can do it if anyone can. A major part of the job is resisting the blandishments of other federal officials demanding more money for their own pet programs.

Shultz's track record so far indicates he can resist such pressures.

As labor secretary in an unenviable period of the steepest inflation in 20 years, sharply rising unemployment and a declining economy, Shultz wasted no time in telling off either labor or business leaders he believed wrong.

He chided Chamber of Commerce officials at their own national conference for overemphasizing the threat of strikes to the nation. And he told construction union leaders bluntly they could wind up pricing themselves out of the market by demanding too high wage increases.

LIKED BY BOTH

Yet he was given high marks by both business and labor leaders generally.

Shultz shows little ambition toward becoming the traditional power-broker in high places, softly discounting any suggestion that his new post amounts to being an economics "czar."

Nor, he said, will there be any prestige struggle between himself and John Ehrlichman, another major Nixon aide who heads the newly formed Domestic Council to work with him in overseeing federal programs.

"There's so much to do, and you're anxious to get it done well, and if you find somebody else who can do it well and get him to do it, you're just that much ahead of the game," Shultz said.

Although obviously deeply involved in the prodigious job of managing federal expenditures and trying to take the teeth out of inflation, Shultz does not appear overawed by his own position or that of the President he works for.

Yet, after more than a year-and-a-half under the relentless pressure of the national spotlight, he still sometimes seems surprised at the tough pace.

"If you told me a year ago that I'd be working this hard, I'd have said you were crazy," he confided to an aide not long after taking the labor secretary's job—and now he's even working harder.

"They start meetings at 7:30 in the morning and meet all day," an informant said of Shultz' operations in the White House to get the new job underway.

But, as a husky 6-footer of considerable athletic ability who does not smoke and drinks sparingly, Shultz appears to have the stamina for the job.

A blocking back on Princeton's football team in 1939 and 1940, Shultz won his letter. His tennis game is aggressive and competent, and he shoots 80 on the golf course despite infrequent opportunities to break away from the government grind for recreation.

"No," he said when asked if he lost his White House tennis privileges in addition to the salary cut and the loss of the blue Cadillac. "But I don't know how often I'll get a chance to use it."

Shultz' high ranking in Nixon's esteem blossomed early while he was labor secretary, but there was nothing new in his rapid climb to prominence. In World War II, Shultz entered the Marine Corps as an enlisted man and emerged a major. After that he quietly, unspectacularly built a solid reputation as one of the nation's keenest experts on economics and labor affairs as professor, mediator, arbitrator and writer.

He and wife Helena, whom he met and married when she was a military nurse in World War II, have five children—10-year-old Alex; Barbara, 12; Margaret, 22, a teacher; Kathleen, 20, a University of Denver student, and 18-year-old Peter, who attends Palo Alto High School in California.

Shultz was virtually unknown to Washington when he became labor secretary, and the ways of the nation's capital sometimes irked him.

Observing the maneuvering for power and position, and frequent job switches many political Washingtonians go through to obtain them, Shultz said: "I think you ought to be what you are. If you're an economist, you ought to be an economist. If you are a newspaperman you ought to be a newspaperman."

Shultz, despite his swift climb to the heights of power, is still basically what he was, an economist—if perhaps the nation's foremost. One of Shultz's most surprising friendships in Washington was with George Meany, the blunt and shrewd plumber from the Bronx who rose to head the 13.6-million-member AFL-CIO.

Despite frequent policy clashes between the labor federation and the Nixon administration whose election Meany had fought tooth and nail to defeat, the two men—Shultz and Meany—hit it off.

BACKED BY MEANY

Meany appeared to appreciate Shultz's sincerity toward the problems of the nation's rank-and-file workers—even though they sometimes quarreled about such things as sharply rising plumbers' wages.

"George Shultz has served with distinction as chief of the Department of Labor. He has fully deserved the confidence that American workers, their unions and the AFL-CIO have placed in him," Meany said on Shultz's elevation to federal budget manager. "We are sure he will do well in his new assignment."

Shultz, gently tying together his criticism of high wages and his theory that a man should stick to his own trade, likes to tell a story about another ex-plumber, Republican Rep. William H. Ayres of Akron, Ohio.

Shultz, speaking at an international labor conference at which Ayres was a delegate, mentioned the Ohio congressman had once been a plumber.

"From the back of the room," Shultz said, "a voice asked, 'then how can he afford to be a congressman?' "

Shultz, stuck with the difficult task of defending Nixon's stringent economic policies to control inflation, doesn't duck the problem.

"There's nothing like a profit squeeze to put backbone into management," he once said of a tough set of labor negotiations in explaining that Nixon's policies were designed to slow business, take the heat out of the economy and pressure labor and business into more moderate wage and price hikes.

The remark infuriated Meany and other labor leaders, but the ill feeling over that incident didn't damage his over-all relations with union leaders.

On the other hand, Shultz was the first Nixon administration economist to side with labor complaints and warn that the government's tight money and high interest policies had become a "stranglehold" that threatened to slow the economy too much.

Shultz had to buck other highly placed federal economic policymakers on that issue, and he won. The Nixon policy since has been to ease the money supply in an effort to guide the economy back into a hopefully moderate growth without renewing inflationary pressures.

Shultz makes no bones that the job is tough.

"It's clear enough that the inflation we inherited is a very tough thing to get hold of. Tougher than I thought it would be," he said. "It's a hard road, there's no doubt about it."

At the Western White House recently, faced with the less than happy news of the highest rise in wholesale prices in six months, Shultz said, "We're still hanging in there and working to contain inflation."

Nixon is staking a large part of his political fortunes on Shultz's ability to check inflation before the 1972 presidential election.

Besides acquitting himself well in advising Nixon on labor and economic affairs during his tenure as labor secretary, Shultz is also credited with rescuing Nixon's proposed revolutionary Family Assistance Plan, designed to wean welfare recipients to gainful employment through a sliding formula of federal payments that embrace the low-paid "working poor" in addition to unemployed welfare clients.

The big hangup was in devising the sliding scale formula that would encourage welfare recipients to train for jobs and go to work without penalizing them financially with wages lower than welfare payments.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

THE PROFILE IS LOWERING

Mr. GRIFFIN. Mr. President, on last Thursday another benchmark in the Nixon administration's program of Vietnamization was reached with the departure of 2,800 more American troops from Vietnam. For the first time since 1967 there are fewer than 400,000 American soldiers in Vietnam.

The American command in Saigon announced over the weekend that our troop level in Vietnam is now 399,500.

This lowering of the American profile in Asia is a firm, rational effort on the part of the Nixon administration to return the problem of protecting South Vietnam to the Vietnamese themselves.

From 1961 until the spring of 1969 it was otherwise. Day by day, month by month, the number of Americans directly involved in the fighting grew and grew. When President Nixon took office in January 1969, there were nearly 550,000 Americans fighting in Southeast Asia.

President Nixon almost at once began to reverse the trend. In the spring of 1969 he announced the first withdrawal of American troops with the promise that this would be followed by other withdrawals as the war became more and more the affair of the South Vietnamese themselves and less and less the business of young Americans.

Success of the Vietnamization program can be judged by reports from Vietnam. The South Vietnamese Government now controls most of the countryside, according to unbiased observers. The Vietcong, which once commanded the loyalty of the vast majority of the peasants in the Mekong Delta area, is now despised and hated. Their powerful hold on the area has been broken. Only the presence of troops from North Vietnam prevents peace in much of the countryside.

A little recognized fact is that, at long last, the promised land reforms are taking place and South Vietnamese peasants really do have something worth fighting for—their own land. These reforms were promised and repromised throughout the 1960's, but it was not until the Nixon administration took a firm, hard-nosed stand that land reform actually began.

Mr. President, the war in Vietnam is not over, and peace has not yet come to that land. But American participation in that war is growing less and less, day by day.

Mr. CURTIS. Mr. President, will the distinguished Senator yield?

Mr. GRIFFIN. I yield.

Mr. CURTIS. I want to commend the Senator for calling the attention of the country to the troop withdrawals from Vietnam. There is a parallel set of figures to which attention should also be called. I refer to the draft calls. At the same time that we are recalling trips from Vietnam, the draft calls have gone down and down. I believe it was yesterday that the Secretary of Defense announced that hereafter emergencies would be met by the use of National Guard Reservists, and indicated a dwindling use of draft calls.

When we think back to the middle 1960's, when the buildup was taking place in Vietnam and we were escalating action there and the United States was sending troops and more troops there, the draft calls likewise were escalating and increasing rapidly.

Just when the draft can end remains to be seen, but the point is that without the Vietnamization program and the withdrawal program that has been underway, we could not look forward to any ending of the draft soon.

I commend the distinguished acting minority leader for bringing out this fact.

Mr. GRIFFIN. I thank the Senator.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATION FROM EXECUTIVE DEPARTMENT

The ACTING PRESIDENT pro tempore (Mr. ALLEN) laid before the Senate the following letter, which was referred as indicated:

REPORT ON GRANTS WHICH ARE FINANCED WHOLLY WITH FEDERAL FUNDS

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on grants approved by that office which are financed wholly with Federal funds, for the period April 1, 1970 to June 30, 1970 (with an accompanying report); to the Committee on Finance.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

A resolution of the Senate of the State of California; to the Committee on Commerce:

"SENATE RESOLUTION 286 RELATIVE TO THE PROTECTION OF THE FARALLON ISLANDS

"Whereas, For the first time in more than a century, the southeast island of the Farallon chain will be uninhabited when the United States Coast Guard, late this year, completes the automation of its lighthouse there; and

"Whereas, All of the picturesque rocky islands of the chain are breeding grounds for thousands of sea birds and a temporary refuge for a fantastic number of land birds; and

"Whereas, California and Steller sea lions breed there, and the elephant seal uses the islands as a resting area; and

"Whereas, The Coast Guard personnel for more than sixty years have acted as unofficial game wardens for all the islands; and

"Whereas, The Audubon Society, the Wilderness Society, and the Sierra Club, have succeeded in their efforts to add South Farallon Island to the Farallon National Wildlife Refuge, but it will turn into a grim joke unless a caretaker is stationed there to enforce regulations; and

"Whereas, Because there are numerous reports of killing and disturbing of the animals and birdlife in spite of the protection offered by the Coast Guard, it is feared there may be wholesale slaughter when the islands are left defenseless; and

"Whereas, The Point Reyes Bird Observatory is seeking funds from the Fish and Wildlife Department to establish a permanent base on the island for scientific studies and protection from vandals; now, therefore, be it

"Resolved by the Senate of the State of California, That the Members do hereby urge the federal government to finance the permanent base on the Farallon Islands as proposed by the Point Reyes Bird Observatory; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States.

"This is to certify that the above resolution was adopted by the Senate on August 6, 1970.

"DARYL R. WHITE,
"Secretary of the Senate."

A resolution adopted by the board of trustees of the National Association of Life Underwriters, Washington, D.C., praying for the establishment of a planned procedure for the expeditious reduction and ultimate

retirement of the national debt; to the Committee on Finance.

A resolution adopted by the International Conference of Police Associations, Washington, D.C., praying for immediate steps to be taken to end the vengeful and senseless killings of police officers throughout the United States and Canada; to the Committee on the Judiciary.

The petition of Polytechnic Institute of Technology, Grass Valley, Calif., praying for a redress of grievances; to the Committee on the Judiciary.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. ALLEN) laid before the Senate sundry messages from the President of the United States submitting nominations received on September 3, 1970, under the order of September 1, 1970, which were referred to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ANDERSON, from the Committee on Aeronautical and Space Sciences, without amendment:

H.R. 16539. An act to amend the National Aeronautics and Space Act of 1958 to provide that the Secretary of Transportation shall be a member of the National Aeronautics and Space Council (Rept. No. 91–1161).

By Mr. PELL, from the Committee on Labor and Public Welfare, with an amendment:

S. 3318. A bill to amend the Library Services and Construction Act, and for other purposes (Rept. No. 91–1162).

By Mr. SPONG, from the Committee on the District of Columbia, with amendments:

H.R. 4182. An act to authorize voluntary admission of patients to the District of Columbia institution providing care, education, and treatment of mentally retarded persons (Rept. No. 91–1163).

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

H.R. 18260. An act to authorize the U.S. Secretary of Health, Education, and Welfare to establish educational programs to encourage understanding of policies and support of activities designed to preserve and enhance environmental quality and maintain ecological balance (Rept. No. 91–1164).

BILLS INTRODUCED

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

By Mr. TYDINGS:

S. 4324. A bill to amend title I of the Narcotic Addict Rehabilitation Act of 1966 to cover addicts charged with misdemeanors in the District of Columbia; to the Committee on the District of Columbia.

(The remarks of Mr. TYDINGS when he introduced the bill appear below under the appropriate heading.)

By Mr. WILLIAMS of New Jersey:

S. 4325. A bill to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman; to the Committee on the Judiciary.

S. 4326. A bill to provide additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting and funding of private pension plans, to provide an insurance program guaranteeing plan termination protection, and for other purposes; and

S. 4327. A bill to amend the Welfare and Pension Plans Disclosure Act; to the Committee on Labor and Public Welfare.

(The remarks of Mr. WILLIAMS of New Jersey when he introduced the bills appear below under the appropriate headings.)

By Mr. TYDINGS:

S. 4328. A bill to improve judicial machinery by providing the district courts with jurisdiction over certain types of civil actions, and for other purposes; to the Committee on the Judiciary.

(The remarks of Mr. TYDINGS when he introduced the bill appear below under the appropriate heading.)

By Mr. SMITH of Illinois:

S. 4329. A bill to amend title 18, United States Code, to strengthen the laws concerning illegal use, transportation, or possession of explosive and the penalties with respect thereto, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Illinois (by request):

S. 4330. A bill for the relief of Jean Panagiote Anastasakis; to the Committee on the Judiciary.

By Mr. HART (for himself, Mr. MAGNUSON, Mr. HARTKE, and Mr. NELSON):

S. 4331. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes; to the Committee on Commerce.

(The remarks of Mr. HART when he introduced the bill appear below under the appropriate heading.)

S. 4324—INTRODUCTION OF A BILL RELATING TO NARCOTICS TREATMENT

Mr. TYDINGS. Mr. President, I am introducing today a bill to amend title I of the Narcotic Addict Rehabilitation Act of 1966 in order to allow addicts charged with misdemeanors in the District of Columbia to be eligible for the treatment provisions under that act.

Currently, under that act, all suspects charged with felony violations of Federal law who are adjudged to be addicts may be committed to treatment in lieu of prosecution at the discretion of the U.S. attorney. But because of a legislative oversight, persons charged with misdemeanors, who are adjudged to be addicts, cannot be committeed to treatment in lieu of prosecution, even if the U.S. attorney believes treatment is the best course to follow.

Since the District of Columbia is the only jurisdiction where persons charged with misdemeanors are tried in Federal courts, my bill would correct that legislative oversight.

I ask unanimous consent that my amendment to title I of the Narcotic Addict Rehabilitation Act of 1966 be printed in the RECORD at this point.

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

The bill (S. 4324) to amend title I of the Narcotic Addict Rehabilitation Act of 1966 to cover addicts charged with misdemeanors in the District of Columbia, introduced by Mr. TYDINGS, was received, read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed in the RECORD, as follows:

S. 4324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2902(a) of Title 28 of the United States Code, is amended by inserting in the first sentence after the word "court" and before the word "believes" the phrase "or the Court of General Sessions in the District of Columbia."

S. 4325—INTRODUCTION OF A BILL TO PROHIBIT FLIGHT IN INTERSTATE OR FOREIGN COMMERCE TO AVOID PROSECUTION FOR THE KILLING OF A POLICEMAN OR FIREMAN

Mr. WILLIAMS of New Jersey. Mr. President, during the past several weeks the American people have become deeply disturbed by the increasing frequency of senseless attacks upon law enforcement officers at the State and local levels. The brutal pointblank shooting of a Philadelphia policeman is just the most recent example in what has become an alarming trend toward brutal assaults upon policemen and firemen.

This year alone there have been all too many instances of unprovoked attacks on policemen throughout the Nation:

In July, an officer on Chicago's South Side was shot and killed as he sat in his patrol car filling out a report; in mid-August an Omaha policeman was killed when a bomb exploded as he and seven of his fellow officers were investigating a report of a screaming woman; in San Francisco, a patrol car was blown up as two police officers were checking out a burglary report; a New York City policeman was shot in the right arm while investigating a report of gunfire at a Brooklyn yacht club; and in my own State of New Jersey a State trooper was grazed in the head by a bullet in a brief exchange of gunfire during a 13-mile chase of a stolen truck.

Since 1960 more than 600 policemen have been killed in this country. Thus far this year, 16 police officers have been murdered in unprovoked attacks—nearly four times the annual average for the past 10 years. At least 57 have died in the line of duty so far in 1970. And last year there was an all-time record of 86 such police deaths.

This is an absolutely intolerable situation and we must move quickly to stop this gruesome trend before it spreads further. Today I am introducing legislation which will enable the Federal Bureau of Investigation to join the search for killers of policemen and firemen within 24 hours of the crime. The bill makes it a specific Federal crime to flee across State lines to avoid prosecution for the killing of a policeman or fireman. The key section of the bill provides that if no person alleged to have committed the offense has been apprehended and taken into custody within 24 hours after the crime was committed it will be assumed that he has fled across State lines. Thus, if the killer is still at large

24 hours after the murder of a policeman or fireman the FBI will be automatically authorized to take part in the search.

The FBI has repeatedly proven itself to be a most effective law enforcement agency and it is feared by lawbreakers throughout the world. I believe the knowledge that the FBI will enter the hunt for the killer of a policeman or fireman within a short time of the commission of the crime will prove an important deterrent to anyone contemplating an attack on our police or firefighters.

I am well aware that under the existing fugitive felon law the FBI is authorized to conduct a search in the case of any crime where the offender crosses State lines to avoid arrest. However, it is not clear from the law as to when specifically the FBI will enter into the case. And although it is my understanding that the FBI has an informal arrangement with State and local police to lend at least technical and laboratory assistance in the case of a police or fireman shooting I think this arrangement should be formalized in the Federal statute books without delay.

This Nation, and every civilized nation relies upon its law enforcement officials to enforce the rules of conduct which separate man from the wild animals. We also know the tremendous importance of our firefighters who not only protect our property from burnings and bombings but, more importantly, who save countless lives each year through their ambulance and resuscitation units.

Today the policeman is the man in the middle. We expect him to be a lawyer, a sociologist, a guard, a doctor, and sometimes a gunfighter. The same is true for the fireman who we count on to heroically save our burning buildings, rush victims of fires and ill health to safety, and perform many other public services particularly for our children. Yet, we want them to work for ridiculously low wages and often pay them little respect.

Police and firemen in big cities are in an especially precarious position because they must do their jobs in an atmosphere of strong and conflicting emotions which can, and often do, explode into violence.

Congress is moving to help build thoroughly professional law enforcement agencies throughout the Nation by providing more Federal assistance. But we must also back up our policemen and firemen by making sure that anyone who contemplates attacking these public servants knows beforehand that he will have to face the full force of our law enforcement machinery. This is a critical situation and we should not lose any more time in striving to correct it.

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

The bill (S. 4325) to prohibit flight in interstate or foreign commerce to avoid prosecution for the killing of a policeman or fireman, introduced by Mr. WILLIAMS of New Jersey, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 4326 AND S. 4327—INTRODUCTION OF BILLS TO PROVIDE ADDITIONAL PROTECTION FOR RIGHTS OF PARTICIPANTS IN PRIVATE PENSION PLANS AND TO PROVIDE FOR MINIMUM UNIFORM FIDUCIARY RESPONSIBILITY ON PERSONS HANDLING WELFARE AND PENSION FUNDS

Mr. WILLIAMS of New Jersey. Mr. President, for some months now the Subcommittee on Labor, of which I am chairman has been engaged, pursuant to Senate Resolution 360, in a major study of welfare and pension plans. A very significant part of our effort is a survey of major private pension and welfare plans currently in progress. We have now distributed our initial survey form to a sample of more than 1,500 of the approximately 34,000 plans registered with the Department of Labor. This survey is designed to elicit vitally needed data on the vesting, funding, portability, investment and fiduciary operations of the private pension system.

We expect that some time will be required to process the incoming information and I expect that recommendations evolving from this study will be ready early in the next Congress.

There is, however, in my judgment a need for a continuing congressional inquiry into private pension plans so as to illuminate the serious problems many American workers suffer as a result of certain insufficiencies in the private pension system.

Our recent hearings on the UMWA welfare and retirement fund have illustrated that this area needs serious attention. We have found that frequently, when workers and their families need help most, they find it wanting. When workers and their families think that sufficient provision has been made for their security, they find it an illusion.

I believe the failure to provide workers with complete information concerning their expectancies under a private pension plan results in grave consequences to that worker, his family, and society when he reaches retirement age. Too frequently, a worker reaching retirement finds the promised benefits to be an empty cupboard. I believe that there is an urgent need to provide a worker with adequate information about retirement years early in his career, so that he will have an opportunity to consider and plan for his retirement needs.

We must devote more attention to the question of standards for vesting, funding, insurance, and portability of pension benefits for each American worker so that if he is forced to leave his job, as so many workers are finding it necessary to do because of today's sluggish economy, he will not be faced with a termination of future pension benefit rights.

We must also fully explore the area of fiduciary responsibilities of pension plan administrators and trustees in order to be assured that appropriate standards are followed in the operation of private pension plans so as to eliminate and prevent pension abuses.

There are presently several different bills pending before the Senate to regulate private pensions. Today, in the interest of presenting the Senate with additional options in this regard, I am introducing two bills that were introduced in the last Congress by the distinguished chairman of the Committee on Labor and Public Welfare, Senator YARBOROUGH.

There are many points of view on these bills, and much has been written and said already. Some will say all the bills go too far, others will say the bills do not go far enough—both positions may be right in certain respects. In my judgment none of the bills presented thus far represent the ideal approach. Consequently, I anticipate close scrutiny of this legislation by the committee, and I expect that many of the ideas embodied in the various bills will be included in the final legislation.

The bills I introduce today are directed at providing the worker with some degree of certainty with respect to his retirement benefits and will provide for necessary fiduciary standards by those who are charged with the operation of their pension funds.

The first bill I am introducing, "The Pension Benefit Security Act," contains a number of provisions relating to vesting, funding, termination insurance, and portability studies, as follows:

First. A minimum standard is imposed that would require vested retirement benefits to all participants who have worked for the same employer for 10 or more years after reaching the age of 25.

Second. A minimum standard of funding is required to assure that sufficient assets are accumulated to carry out promises to employees and the dependents.

Third. The bill creates a Pension Benefit Insurance Corporation to administer a system of termination insurance to provide payment of benefits in the event a pension fund is terminated before it is fully funded.

Fourth. The bill authorizes the Secretary of Labor to conduct studies of pension plans including studies relating to the "portability" of pension credit.

The second bill, I am introducing, "The Welfare and Pension Plan Protection Act of 1970," is addressed to the fiduciary aspects of pension plans. It amends the Welfare and Pension Plans Disclosure Act as follows:

First. New disclosure requirements are provided in order to establish a sound basis for evaluating fiduciary conduct.

Second. The bill provides minimum and uniform standards of fiduciary responsibilities on persons handling pension and welfare funds, including the imposition of and liability for those breaching the standard.

Third. The bill provides limiting standards on the investment of retirement funds in the securities of the employer company.

Fourth. The bill gives the Secretary of Labor added investigative and enforcement powers with respect to the requirements of the act, and establishes an Ad-

visory Council on Employee Welfare and Pension Benefit Plans to advise the Secretary of Labor.

Mr. President, I ask unanimous consent that the texts of these two bills and an explanatory statement of each bill's provisions be printed at this point in the RECORD.

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

The bills, introduced by Mr. WILLIAMS of New Jersey, were received, read twice by their titles, referred to the Committee on Labor and Public Welfare, and ordered to be printed in the RECORD, as follows:

S. 4326

A bill to provide additional protection for the rights of participants in private pension plans, to establish minimum standards for vesting and funding of private pension plans, to provide an insurance program guaranteeing plan termination protection, and for other purposes

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 "Pension Benefit Security Act of 1970".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that private pension plans are a major and increasing factor with respect to the continued well-being and security of millions of employees and their dependents; that because of the present and anticipated size and importance of these plans they have a significant bearing on industrial relations, on employment, and on the national economy; that owing to their interstate character they have become an important factor in commerce, that a large volume of the activities carried on by such plans are effected by means of the mails and instrumentalities of interstate commerce; that they substantially affect the revenues of the United States because they they are afforded preferential Federal tax treatment; that despite the enormous growth in such plans many employees with long years of employment are losing anticipated retirement benefits owing to the lack of vesting provisions in such plans; that owing to the inadequacy of current minimum standards, the soundness and stability of plans with respect to adequate funds to pay promised benefits may be endangered; that owing to the involuntary termination of plans before requisite funds have been accumulated, employees and their dependents have been deprived of anticipated benefits; and that it is therefore desirable in the interests of employees and their beneficiaries, for the protection of the revenue of the United States, and to provide for the free flow of commerce, that minimum standards be provided assuring the equitable character of such plans, their financial soundness, and protection of benefits in the event of involuntary plan termination.

(b) It is hereby declared to be the policy of this Act to protect interstate commerce, the Federal taxing power, and the interests of participants in private pension plans and their beneficiaries by improving the equitable character and the soundness of such plans by requiring them to vest the accrued benefits of employees with significant periods of service, to meet minimum standards of funding, and to protect the vested rights of participants against losses due to involuntary plan termination.

DEFINITIONS

SEC. 3. When used in this Act—

(a) The term "Secretary" means the Secretary of Labor.

(b) The term "pension plan" means any plan, fund, or program which is communicated or its benefits described in writing to the employees as a group and which was heretofore or is hereafter established or maintained by an employer or by an employer or by an employer together with an employee organization, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, including any profit-sharing plan which provides benefits at or after retirement; providing that nothing herein shall be construed to include any plan, fund, or program to which only employees contribute.

(c) The term "employee organization" means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee pension plan, or other matters incidental to employment relationships.

(d) The term "employee" means any individual employed by an employer.

(e) The term "participant" means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from a pension plan, or whose beneficiaries may be eligible to receive any such benefit.

(f) The term "beneficiary" means a person designated by a participant or by the terms of a pension plan who is or may become entitled to a benefit thereunder.

(g) The term "employer" means any person acting directly as an employer or indirectly in the interest of an employer in relation to a pension plan, and includes a group or association of employers acting for an employer in such capacity.

(h) The term "person" means an individual, partnership, corporation, mutual company, joint stock company, trust, unincorporated organization, association, or employee organization.

(i) The term "State" means any State of the United States, the District of Columbia, the Canal Zone, the Commonwealth of Puerto Rico, any territory or possession of the United States, or the Outer Continental Shelf Lands as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

(j) The term "administrator", whenever used in this Act, means, in the case of a pension plan established or maintained by a single employer, the employer; in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees or other similar group of representatives of the parties who established or maintained the plan.

(k) The term "regular retirement benefit" means only that benefit payable under the plan in the event of retirement at the regular retirement age.

(l) The term "accrued portion of the regular retirement benefit" means—

(1) Under a plan which provides for payment of a fixed benefit, that portion of such benefit which would have been payable at regular retirement age, computed as of the day of termination of employment, as the number of years of credited service under the plan bears to the total possible years of credited service had employment continued to the regular retirement age.

(2) Under a plan which provides for benefits based solely upon the amount contributed to the employee's account, the amount credited to such account toward regular retirement benefits at the time of termination of employment.

(m) The term "regular retirement age" means not later than age sixty-five.

(n) The term "vested liabilities" means the present value of the immediate or deferred benefits for participants and their beneficiaries which are nonforfeitable and for which all conditions of eligibility have been fulfilled under the provisions of the plan prior to its termination.

COVERAGE

SEC. 4. (a) Except as provided in subsections (b) and (c), this Act shall apply to any pension plan—

(1) if it is established or maintained by any employer engaged in commerce or in any industry or activity affecting commerce or by such employer together with any employee organization representing employees engaged in commerce or in any industry or activity affecting commerce; or

(2) if such plan is established or maintained by any employer or by any employer together with any employee organization and if, in the course of its activities, such plan, directly or indirectly, uses any means or instruments of transportation or communication in interstate commerce or the mails.

(b) This Act shall not apply to any pension plan if—

(1) such plan is administered by the Federal Government or by the government of a State or by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

(2) such plan is established and maintained outside the United States primarily for the benefit of persons who are not citizens of the United States;

(3) such plan provides contributions or benefits for a sole proprietor or in the case of a partnership, a partner who owns more than 10 per centum of either the capital interest or the profits interest in such partnership.

(c) In addition, titles II, III, and IV, shall not apply to any pension plan if—

(1) the plan has a fixed contribution rate and does not provide an amount expected to be paid as a fixed benefit;

(2) the plan is a profit-sharing plan which provides benefits at or after retirement;

(3) the plan is one in which benefits are paid solely from the general assets of the employer.

(d) For purposes of this section—

(1) The term "commerce" means trade, traffic, commerce, transportation, transmission, or communication, among the several States or between any State and any place outside thereof.

(2) The term "industry affecting commerce" means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry "affecting commerce" within the meaning of the Labor-Management Act, 1947, as amended, or the Railway Labor Act, as amended.

EFFECTIVE DATE

SEC. 5. The provisions of titles I, II, and III of this Act shall become effective two years after enactment of this Act. The provisions of titles IV and V of this Act shall become effective upon the date of the enactment of this Act.

TITLE I—VESTING

ELIGIBILITY REQUIREMENTS

SEC. 101. No pension plan subject to this title which was adopted after the date of enactment of this Act shall, after the effective date of this title, provide as a condition for eligibility to participate in such plan a period of services longer than three years on an

age higher than age 25. Any pension plan subject to this title which was in effect on or before the date of enactment of this Act may retain its eligibility requirements until such plan is amended to provide increased benefits to participants or beneficiaries or ten years after the date of enactment of this Act, whichever occurs first. Thereafter, such pension plan shall comply with the eligibility requirements applicable to pension plans adopted after the date of enactment of this Act.

NONFORFEITABLE BENEFITS

SEC. 102. Every pension plan subject to this title shall provide for nonforfeitable rights to regular retirement benefits when the plan has been in effect for five years or more, as follows:

(a) PRESENT PLANS.—Every pension plan created before the date of enactment of this Act shall, in accordance with one of the following alternatives, provide that the rights of employees to receive benefits are non forfeitable:

(1) After a specified period of service not exceeding ten years, as to that part of the accrued portion of the regular retirement benefit (including benefits provided under amendment) which is attributable to periods after the effective date of this title, or

(2) After a specified period of service not exceeding ten years, as to not less than 10 per centum of the entire accrued portion of the regular retirement benefit (including benefits provided under amendment) which percentage shall increase at a rate equivalent to at least 10 percentage points for each year the plan has been in effect after the effective date of this title, so that the percentage will reach 100 per centum no more than nine years after the effective date of this title; or

(3) After a specified period of service not to exceed twenty years, as to the entire accrued portion of the regular retirement benefit (including benefits provided under amendment) which period shall be reduced at a rate equivalent to at least one year for each year the plan has been in effect after the effective date of this title, so that ten years after the effective date of this title the required period of service does not exceed ten years; or

(4) In accordance with such other provisions making nonforfeitable, after a specified period of service, the entire accrued portion of the regular retirement benefit, which are approved by the Secretary, after notice and opportunity to be heard, as substantially consistent with the purposes of this section as expressed in subsection (a) paragraphs 2 and 3.

(b) NEW PLANS.—Every pension plan created on or after the date of enactment of this Act shall provide that the rights of the employees to receive benefits shall be nonforfeitable—

(1) After a specified period of service not to exceed fifteen years, as to the entire accrued portion of the regular retirement benefit as of the sixth year of the plan's operation, which period shall be reduced at a rate equivalent to at least one year for each year after the sixth year of the plan's operation, so that in the eleventh year of the plan's operation, the required period of service does not exceed ten years; or

(2) After a specified period of service not to exceed ten years, as to 50 per centum of the entire accrued portion of the regular retirement benefit as of the sixth year of the plan's operation, which percentage shall increase at a rate equivalent to at least 10 percentage points for each year the plan has been in effect after the sixth year of the plan's operation, so that in the eleventh year of the plan's operation, the entire accrued portion of the regular retirement benefit shall be nonforfeitable after a period of service not to exceed ten years.

(c) COLLECTIVE BARGAINING AGREEMENTS.—With respect to a pension plan created or operated under a collective bargaining agreement in existence as of the date of enactment of this Act but due to expire after the effective date of this title, the provisions of this title shall apply after the expiration date of such collective bargaining agreement but in no event later than one year after the effective date of this title.

(d) PERIOD OF SERVICE.—In computing the period of service under the plan, an employee's entire service with the employer contributing to or maintaining the plan shall be considered, except the following may be disregarded:

(1) service prior to age 25;

(2) service during which the employee declined to contribute to a plan requiring employee contributions;

(3) service with a predecessor of the employer contributing to or maintaining the plan (except where the plan of the predecessor has been continued in effect by the successor employer); and

(4) service broken by periods of suspension of employment, provided that the rules governing such breaks in service are not unreasonable or arbitrary as determined under regulation of the Secretary.

(e) PROVISIONS DEALING WITH FORFEITURE OF BENEFITS. Nothing contained in this title shall be construed to disallow any plan provision—

(1) making benefits forfeitable for misconduct such as theft, dishonesty, or divulging the employers' trade secrets to competitors: *Provided,* That such provisions are not unreasonable or arbitrary as determined under regulation of the Secretary; or

(2) adopted pursuant to regulations of the Secretary of the Treasury or his delegate to preclude discrimination in the event of early termination of a plan.

(f) CONTRIBUTORY PLANS.—No penson plan subject to this title to which employees contribute shall provide for forfeiture of benefits which accrued during participation in the plan by the employee and which were attributable to employer contributions, solely because of withdrawal by such employee of amounts attributable to his own contributions.

DISTRIBUTION OF NONFORFEITABLE BENEFITS TO TERMINATION PARTICIPANTS

SEC. 103. (a) Nonforfeitable benefits accrued by terminating participants may be distributed in the manner set forth in the plan: *Provided,* That distribution of such benefits shall commence no later than the regular retirement age and that such benefits are paid in the same form as retirement benefits are paid.

(b) The administrator shall, upon termination of a vested participant's employment prior to regular retirement age, report to the Secretary of Health, Education, and Welfare such information as the Secretary of Health, Education, and Welfare may prescribe by regulation to facilitate notification of vested rights to such participants or their beneficiaries. The Secretary of Labor shall reimburse the Secretary of Health, Education, and Welfare for use by the latter of personnel and facilities in the performance of his functions under this subsection.

ENFORCING OF VESTING STANDARDS

SEC. 104. Whenever the Secretary finds it necessary or appropriate for the enforcement of the provisions of this title or any rule or regulation thereunder, he may require a certificate of approval with respect to the vesting provisions of any pension plan. Denial of any such certificate shall be by order of the Secretary, and only after reasonable opportunity for hearing. A certificate of approval shall be issued by the Secretary when he determines that the vesting provisions in question do not violate the requirements of this title. Whenever a certificate of approval is required for any pension plan, it shall be unlawful for the administrator of any such plan to maintain or operate such plan unless a certificate has been obtained.

TITLE II—FUNDING

FUNDING SCHEDULE

SEC. 201. (a) GENERAL RULE.—Every pension plan subject to this title shall—

(1) provide for contributions to the plan in amounts necessary to meet an amount equal to the normal cost since inception of the plan plus interest on any unfunded past service costs, and

(2) maintain a minimum ratio of assets to vested liabilities according to the following schedule:

If the plan has been in effect (in years)	The ratio of assets to vested liabilities shall be at least (in percent)
5	20
6	24
7	28
8	32
9	36
10	40
11	44
12	48
13	52
14	56
15	60
16	64
17	68
18	72
19	76
20	80
21	84
22	88
23	92
24	96
25	100

(b) SPECIAL PROVISION FOR PLANS FIVE OR MORE YEARS OLD.—In the case of a plan which on the effective date of this title has been in effect for five or more years, the administrator, when he files the first funding status report required by section 202 of this Act, may choose as the required funding ratio—

(1) the ratio specified by the schedule in subsection (a)(2), or

(2) the actual funding ratio of the plan.

Beginning with the ratio thus chosen, the required ratio shall increase by 3 percentage points each year for the next five years and 4 percentage points each year thereafter until the ratio becomes 100 percent.

(c) SPECIAL PROVISION FOR PLANS LESS THAN FIVE YEARS OLD.—A plan which on the effective date of this title has been in effect for less than five years shall become subject to (a)(2) above as soon as the plan has been in effect for five years. The options provided in subsection (b) shall be available to a plan in this category except that the time allowed for increasing the required ratio by 3 percentage points each year shall be limited to a period equal to the number of years the plan has been in effect prior to the effective date of this title.

(d) SPECIAL PROVISION FOR PLAN AMENDMENTS.—If, after the effective date of this title, a plan which has been in existence for five or more years is amended with a resulting increase in vested liabilities, the administrator may adjust the required funding schedule according to one of the following methods:

(1) The plan's funding ratio may be decreased in proportion to the ratio which the additional vested liabilities bear to the total vested liabilites after the amendment. The resulting ratio will be increased each year by percentage point increments according to the applicable funding rate specified in subsection (a)(2) or (b).

(2) If the amendment results in a 25 per

centum or greater increase in vested liabilities, the portion of vested liabilities created by the amendment may be regarded as a new plan subject to the funding schedule imposed by subsection (a)(2). In this case, the administrator shall keep separate records for ascertaining the funding status of the vested liabilites created by the amendment.

FUNDING STATUS REPORTS

SEC. 202. (a) Within one hundred and fifty days after the end of the plan's first fiscal year during which it is subject to section 201(a)(2), and within one hundred and fifty days after the end of each third fiscal year thereafter, or within one hundred and fifty days after the end of any fiscal year in which the plan is amended so as to increase vested liabilities, the administrator of the plan shall file with the Secretary, a statement containing the following information:

(1) the amount of normal cost since inception of the plan plus interest on any unfunded past service costs;

(2) the total amount of the plan's vested liabilities at the close of its preceding fiscal year;

(3) the assets held by the plan as of the close of its preceding fiscal year valued at market value or by any other method approved by the Secretary pursuant to regulation;

(4) the number of years the plan has been in effect;

(5) a statement of the amount, if any, by which the assets held by the plan either exceed or fall below the amount of assets required in order for the plan to meet the funding ratio required under section 201(a)(2);

(6) such other information determined by the Secretary by regulation to be necessary for adequate disclosure of a plan's funding status.

(b) At such times as the administrator of a plan subject to this title is required to file a report with the Secretary pursuant to (a) above, the administrator shall make available to each person having a vested benefit such report, by posting such report in a prominent location at the employer's place or places of business or through such other means that will insure that persons with vested benefits have adequate access to such information.

ENFORCEMENT OF FUNDING STANDARDS

SEC. 203. (a) When the contributions to a pension plan fall below amounts necessary to meet the requirements of section 201(a)(1), the Secertary shall require by order, after notice and oppotrunity for hearing, that the administrator take such steps as the Secretary shall find necessary to guarantee that the rights of each participant to benefits accrued to the date of such failure to make appropriate contributions, to the extent then funded, or the rights of each participant to the amounts credited to his account at such time, are nonforfeitable in the event of the participant's termination, except that nonforfeitable benefits resulting other than through operation of this subsection shall take priority over nonforfeitable benefits resulting exclusively from operation of this subsection with respect to any allocation of plan assets or distribution to participants.

(b) When a pension plan's ratio of assets to vested liabilities falls below the funding ratio required by section 201(a)(2) as determined by the Secretary—

(1) the plan's vested liabilities shall not be increased by an amendment until the plan's actual funding ratio is equal to or greater than the required funding ratio;

(2) the administrator shall inform, in writing, each person having a vested benefit as to (A) the amount of his vested benefit, (B) the portion of his vested benefit protected by assets and insurance, and (C) the portion of his vested benefit not protected by assets and insurance. Such reports shall be made annually until the plan's actual funding ratio is equal to or greater than the required funding ratio; and

(3) the administrator shall make such additional reports to the Secretary as the Secretary may by rule or regulation prescribe to aid in the enforcement of this title.

(c) When a pension plan's ratio of assets to vested liabilities falls below the funding ratio required by section 201(a)(2) for five consecutive years the Secretary shall require by order, after notice and opportunity for hearing, that the administrator take such steps as the Secretary shall find necessary to suspend further accumulation of vested liabilities until such time as the funding deficiency has been removed: *Provided, however,* That the Secretary may, after notice and opportunity for hearing, order the action specified herein to be taken at any time after a funding deficiency has occurred but prior to expiration of the five-year period whenever, in his discretion, such action is necessary to protect the interests of participants. The Secretary may by order revoke or modify any order previously made under this subsection, if, after notice and opportunity for hearing, he finds that the circumstances upon which the order was predicated do not exist.

(d) During any time that a pension plan is in suspended status pursuant to action taken under subsection (c), the Secretary, whenever he finds it necessary to protect the interests of participants, may, after notice and opportunity for hearing, require by order that the plan terminate and wind up its affairs in accordance with the provisions of title III and procedures established by the Pension Benefit Insurance Corporation.

TITLE III—VESTED LIABILITY INSURANCE

INSURANCE COVERAGE

SEC. 301 (a) Every pension plan required to meet a specified funding ratio in accordance with section 201(a)(2) of this Act shall obtain insurance covering unfunded vested liabilities to protect participants and beneficiaries against possible loss of vested benefits arising from an essentially involuntary termination of the plan. The amount of insurance shall be the plan's vested liabilities less the greater of—

(1) 90 per centum of the assets needed to meet the funding ratio required under section 201(a)(2), or

(2) 90 per centum of the plan's actual assets.

(b) The Pension Benefit Insurance Corporation shall issue a certificate of insurance coverage to each plan administrator after receipt by the Corporation from the Secretary of a copy of the statement required by section 202(a). A plan's insurance coverage shall be continuous from the date of issuance of the certificate until canceled.

(c) The Pension Benefit Insurance Corporation shall not insure—

(1) any unfunded vested liabilities created by a plan amendment which took effect within three years immediately preceding termination of the plan; or

(2) any unfunded vested liabilities resulting from the participation in the plan by a participant owning 10 per centum or more of the voting stock of the employer contributing to the plan or by any participant owning a 10 per centum or more interest in a partnership contributing to the plan.

PREMIUMS

SEC. 302 (a) Each plan shall pay a premium for insurance under this title at such uniform rates prescribed by the Pension Benefit Insurance Corporation, based upon the amount of unfunded vested liability which is to be insured and upon such other factors as the Corporation determines to be appropriate. The premium for the initial three-year period shall be not more than 0.6 per centum of the amount insured.

(b) Should any administrator of a plan subject to this title fail to pay any premiums required to be paid under subsection (a), the Pension Benefit Insurance Corporation shall give the administrator of the plan not less than thirty days' notice of intention to cancel insurance unless the premium is paid by the end of such period. If the unpaid premium is not paid by the end of such period, the Corporation shall cancel the plan's certificate of insurance and the plan shall give notice of such cancellation to each person entitled to a vested benefit under the plan.

CLAIMS PROCEDURE

SEC. 303. (a) The administrator of a plan insured under the provision of this title shall file a claim with the Pension Benefit Insurance Corporation in the event the plan is terminated for reasons of financial difficulty or bankruptcy, plant closing, by order of the Secretary, or such other reasons as the Corporation by regulation shall specify as reflecting an essentially involuntary plan termination. The Corporation shall be authorized to honor such claim up to the limits prescribed by section 304 if it finds that the assets of the plan may not be sufficient to pay vested liabilities.

(b) Claims shall be made as specified in the rules and regulations of the Pension Benefit Insurance Corporation. The Corporation shall also require the administrator who files a claim to submit proof of all facts necessary to establish a claim, but in any event, the Corporation may in its discretion independently make such investigation as may be necessary for it to determine the validity of any claim. The Corporation shall require the payment of any contributions owing to the plan and required to meet the funding ratio specified in section 201(a)(2) of this Act, and may sue to recover such contributions on behalf of the plan in connection with settling any claim.

(c) The Pension Benefit Insurance Corporation shall give written notice to the administrator of its decision on any claim. Upon notice that a claim will be honored the administrator shall wind up the affairs of the plan by arranging for the purchase of single premium annuities from a qualified life insurance company for each person entitled to vested benefits, or by making such other arrangements for the distribution of vested benefits as the Corporation may by regulation approve as providing adequate protection to persons with vested benefits. The administrator shall be allowed a reasonable period in which to liquidate the assets of the plan. Upon completing the process of liquidation he shall thereafter submit to the Corporation, within such period specified by regulation of the Corporation, a plan termination report. Such report shall fully disclose the amount of the vested benefit payable to each person under the terms of the plan as of the date the plan was terminated, the amount realized from liquidating assets, the aggregate amount of funds needed to purchase single premium annuities to provide the vested benefit to which each person is entitled under the terms of the plan, and such additional information as may be prescribed by rules of the Corporation. Upon receipt of the plan termination report, the Corporation shall direct the purchase of annuities or authorize the implementation of such other approved arrangement for distributing vested benefits, and pay the claim for insurance in the amount authorized under this title.

PAYMENT OF CLAIMS

SEC. 304. The amount of insurance payable under a valid claim shall be the difference between the realized value of the assets of the plan and the amount of vested liabilities, limited to the amount of insurance determined under section 301 at the time the plan was terminated: *Provided,* That—

(a) in any case where a plan would be entitled to relief under section 502 of this Act with respect to meeting the funding ratio specified in section 201(a)(2) if it were not terminating, such relief may be accorded to the plan upon termination and the amount of insurance to be paid shall be adjusted to take into account the relief so provided; except that no relief in this connection shall be accorded where the only basis presented for such relief is a decline in the value of the assets of the plan;

(b) in any case where Pension Benefit Insurance Corporation is unable to recover any contributions or portions thereof owing to a terminating pension plan to meet the funding ratio specified in section 201(a)(2), the amount of insurance to be paid shall be adjusted to take into account such unpaid contributions.

(c) in any case where a plan is terminated as the result of the closing of a plant of an employer contributing to such plan and the vested liabilities of such terminated plan are less than 20 per centum of the vested liabilities of all the pension plans maintained by such employer, such employer shall be liable to reimburse the Pension Benefit Insurance Corporation for any insurance paid by the Corporation in satisfaction of a claim presented by such terminated plan, and the Corporation is authorized to sue such employer to recover the amount of any unpaid liability lawfully payable under this provision.

UNINSURED PLANS

SEC. 305. It shall be unlawful for any administrator of a plan subject to this title to maintain or operate such a plan without the certificate of insurance required by this title.

TITLE IV—PENSION BENEFIT INSURANCE CORPORATION

CREATION OF PENSION BENEFIT INSURANCE CORPORATION

SEC. 401. There is hereby created a Pension Benefit Insurance Corporation (hereinafter referred to as the "Corporation") which shall insure the vested liabilities of pension plans subject to title III. Such Corporation shall be an agency and instrumentiality of the United States, within the Department of Labor, subject to the general supervision and direction of the Secretary of Labor. The principal office of the Corporation shall be in the District of Columbia but there may be established agencies or branch offices elsewhere in the United States under rules and regulations prescribed by the Corporation.

GENERAL POWERS OF CORPORATION

SEC. 402. The Corporation—

(a) shall have succession in its corporate name;

(b) may adopt, alter, and use a corporate seal, which shall be judicially noticed;

(c) may enter into and carry out such contract or agreements as are necessary in the conduct of its business;

(d) may sue and be sued, in any district court of the United States or its territories or possession or the Commonwealth of Puerto Rico, which courts shall have exclusive original jurisdiction, without regard to the amount in controversy, of all suits brought by or against the Corporation;

(e) may adopt, amend, and repeal by laws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

(f) shall be entitled to the use of the United States mails in the same manner and upon the same conditions as the executive departments of the Federal Government;

(g) shall have power when necessary to carry out the provisions of title III, to make investigations and in connection therewith to enter such places and inspect such records and accounts and question such persons as the Corporation may deem necessary to determine the facts relative thereto. For the purpose of any investigation provided for herein, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Corporation or any officers designated by the Corporation;

(h) shall determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid, subject to provisions of law specifically applicable to wholly owned Government corporations; and

(i) shall have such powers as may be necessary or appropriate for the exercise of the powers specifically vested in the Corporation and all such incidental powers as are customary in corporations generally.

SPECIFIC POWERS OF CORPORATION

SEC. 403. In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Control Act, the Corporation is authorized to use its general powers in accordance with the provisions of title III of this Act to—

(a) establish adequate premium rates to cover the insurance of vested liabilities of private pension plans and the administrative expenses of the Corporation. In determining such premium rates, the Corporation shall consult with the Technical Advisory Committee on Pension Benefit Insurance established by section 405;

(b) establish procedures for the application, renewal, and cancellation of insurance, including the prescribing of such forms and reports as may be necessary or appropriate to implement such procedures;

(c) collect premiums and manage and invest the funds of the Corporation;

(d) adjust and pay claims for insurance under rules prescribed by the Corporation;

(e) conduct research, surveys, and investigations relating to pension plan insurance and assemble data for the purpose of establishing sound bases for insurance;

(f) bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin any acts or practices that constitute or will constitute a violation of title III or IV or of any regulation or order issued thereunder, or obtain any other appropriate relief, and the United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction for cause shown, to restrain violations of title III or title IV and provide for any other appropriate relief; and

(g) carry out such other functions as are required by this Act and as Congress may specifically authorize or provide for.

PENSION BENEFIT INSURANCE FUND

SEC. 404. (a) There is hereby created within the Treasury a separate fund for pension benefit insurance (hereafter in this section called the fund) which shall be available to the Corporation without fiscal year limitation for the purposes of this title.

(b) There is hereby authorized to be appropriated such sums as are necessary to provide capital for the fund. All amounts received as premiums and any other moneys, property, or assets derived from operations in connections with this title shall be deposited in the fund.

(c) All claims, expenses, and payments pursuant to operation of the Corporation under this title shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Corporation shall pay from the fund into the Treasury as miscellaneous receipts interest on the cumulative amount of appropriations provided as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable Treasury obligations. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

BOARD OF DIRECTORS: TECHNICAL ADVISORY COMMITTEE

SEC. 405. (a) The management of the Corporation shall be vested in a Board of Directors (hereinafter referred to as the "Board"). The Board shall consist of the Secretaries of Labor and Commerce ex officio and three other Directors appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among the three Directors he appoints. Of the first three Directors, one shall be appointed to serve for a term of two years; one shall be appointed to serve for a term of four years; one shall be appointed to serve for a term of six years. Thereafter, upon the expiration of the term of office, each succeeding Director shall be appointed to serve for a term of six years. Not more than three of the members of such Board of Directors shall be members of the same political party. Each appointed Director shall receive compensation at the rate of $150 per diem when engaged in the actual performance of duties of the Board, and may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently, except that any such Director who holds another office or position under the Federal Government shall serve without additional compensation. A majority of the Directors shall constitute a quorum of the Board and action shall be taken only by a majority vote of those present.

(b) In addition to the Board of Directors there shall be a Technical Advisory Committee on Pension Benefit Insurance which shall consist of five members to be appointed by the Secretary after consultation with the Secretary of Commerce, to advise and consult with the Corporation with respect to carrying out the purposes of this title. The Secretary shall select for appointment to the Committee individuals who are, by reason of training or experience, or both, familiar with and competent to deal with, problems involving employees' pension plans and problems relating to the insurance of such plans. Members of the Committee shall be appointed for a term of two years. Members shall be compensated at the rate of $100 per day for each day they are engaged in the duties of the Committee and, while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently. The Committee shall meet at Washington, District of Co-

lumbia, upon call of the Chairman of the Board of Directors who shall serve as Chairman of the Committee. Meetings shall be called by such Chairman not less often than twice a year.

PERSONNEL OF CORPORATION

SEC. 406. The Corporation shall appoint and fix the compensation of such officers, attorneys, and employees as may be necessary for the conduct of its business in accordance with the provisions of title 5, United States Code, governing appointment in the competitive service, and chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, and may obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the per diem equivalent for GS–18.

COOPERATION WITH OTHER GOVERNMENTAL AGENCIES

SEC. 407. The provisions of section 509 shall be applicable to the Corporation.

INVESTMENT OF FUNDS

SEC. 408. All money of the Corporation except appropriated funds, may be invested in obligations of the United States or in obligations guaranteed as to principal and interest by the United States.

TAX EXEMPTION

SEC. 409. The Corporation, including its franchise, its capital, reserves, and surplus, and its income and property shall be exempt from all taxation imposed by any State, county, municipality, or subdivision thereof, except nothing herein exempts from taxation any real property acquired and held by the Corporation.

RECORDS; ANNUAL REPORT

SEC. 410. The Corporation shall at all times maintain complete and accurate books of account and shall file annually with the Secretary of Labor a complete report as to the business of the Corporation, a copy of which shall be forwarded by the Secretary of Labor to the President for transmission to the Congress.

GOVERNMENT CORPORATION CONTROL ACT

SEC. 411. The provisions of the Government Corporation Control Act (59 Stat. 597; 31 U.S.C. 841), as applicable to wholly owned Government corporations, shall be applicable to the Corporation.

TITLE V—ADMINISTRATION, CIVIL PROCEEDINGS, AND MISCELLANEOUS PROVISIONS

RULES AND REGULATIONS

SEC. 501. The Secretary shall prescribe such rules and regulations as he finds necessary or appropriate to carry out the provisions of titles I, II, and V. Among other things, such rules and regulations may define accounting, technical, and trade terms used in such provisions; and may prescribe the form and detail of all reports required to be made under such provisions; and may provide for the keeping of books and records, and for the inspection of such books and records.

VARIATIONS; APPEALS BOARD

SEC. 502. (a) PROCEDURE FOR VARIATIONS.—The Secretary on his own motion or after having received the petition of an administrator may, after giving interested persons an opportunity to be heard, and in accordance with the provisions of subsection (b) or (c) below, prescribe an alternative method for satisfying the requirements of title I or II, or both, with respect to any pension plan or any type of pension plan subject to this Act.

(b) GENERAL RULE FOR GRANTING VARIATIONS.—The Secretary may prescribe an alternative method for satisfying the requirements of title I or II, or both, for such limited periods of time as is necessary or appropriate to carry out the purposes of this Act and which will provide adequate protection to the participants and beneficiaries in the plan, whenever he finds that the application of title I or II, or both, would (1) increase the costs of the parties to the plan to such an extent that there would result a substantial risk to the voluntary continuation of the plan or a substantial curtailment of pension benefit levels or the levels of employees' compensation, or (2) impose unreasonable administrative burdens with respect to the operation of the plan, having due regard to the particular characteristics of the plan or the type of plan involved. Nothing herein shall be construed to authorize the Secretary to grant a permanent variation from the requirements of title I or II, or both, except as indicated in subsection (c) below.

(c) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—On the basis of the factors described in (b) above, the Secretary may grant a variation from the provisions of title I on a permanent basis to any plan jointly entered into by five or more employers within a single industry (other than employers under common ownership or control) in which (1) employees in the plan represent a substantial proportion of employees in the industry, either nationally or in a particular region or labor market area, (2) the plan provides for complete transferability of pension benefit credits within the group of employers who are parties to the plan, and (3) a substantial proportion of job changes involving a shift of employers by plan participants takes place within the scope of the plan. No permanent variation shall be authorized which has the effect of permitting the adoption of a period of service longer than 15 years for vesting accrued portions of regular retirement benefits.

(d) VARIATION APPEALS BOARD.—There is hereby established a Variation Appeals Board which shall hear and determine appeals from decisions denying grants of variations in accordance with procedures promulgated by the Secretary pursuant to regulation. Such Board shall include the Secretary of Labor or his designee, the Secretary of Commerce or his designee, and a person jointly selected by the Secretaries of Labor and Commerce from outside the Federal Government who is, by reason of training or experience, or both, familiar with and competent to deal with, problems involving employees' pension plans. The Secretary of Labor or his designate shall serve as presiding officer on such Board. Such non-Federal Government member of the Board shall be compensated at the rate of $100 per day for each day he is engaged in the work of the Board, and, while serving away from his home or regular place of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government employed intermittently.

INVESTIGATIONS

SEC. 503. (a) The Secretary, in his discretion, may investigate any facts, conditions, practices, or matters which he may deem necessary or appropriate to determine whether any person has violated or is about to violate any provisions of titles I, II, and V or any rule, regulation, variation, or order thereunder, or to aid in the enforcement of the provisions of titles I, II, and V, in the prescribing of rules, regulations, variations, or orders thereunder, or in obtaining information with respect to studies undertaken pursuant to section 506. The Secretary, in his discretion, may publish or make available to any interested person or official, information concerning any matter which may be the subject of investigation.

(b) For the purpose of any investigation provided for in (a), the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50) are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

CIVIL ENFORCEMENT

SEC. 504. (a) Whenever it shall appear to the Secretary that any person is engaged or about to engage in any acts or practices that constitute or will constitute a violation of any provision of titles I, II, or V or of any regulation, variation, or order issued thereunder, he may in his discretion, bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.

(b) The United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have exclusive jurisdiction with respect to violations of titles I, II, or V or regulations, variations or orders issued thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by, or to enjoin any violation of, titles I, II or V or regulations, variations or orders thereunder, and to provide such other relief as may be appropriate.

COURT REVIEW OF ORDERS

SEC. 505. The administrator of any pension plan who has been denied a certificate of approval under title I, or whose plan has been suspended or ordered terminated under title II or who has been aggrieved by any final decision with respect to any claim for payment of insurance under title III or with respect to denial of a request for a variation under this title, may obtain a review of the order denying such application for a certificate of approval, such order suspending or terminating the plan, such final decision with respect to an insurance claim or denial of a request for a variation, or any other order or final decision made under this Act, in the United States district court for the district where the principal office of the plan is located. Such court shall have jurisdiction to affirm, modify or set aside such order or decision, in whole or in part. The administrative findings as to the facts, if supported by the evidence, shall be conclusive.

STUDIES

SEC. 506. The Secretary is authorized and directed to undertake research studies relating to pension plans, including but not limited to (1) the effects of this Act upon the provisions and costs of pension plans, (2) the role of private pensions in meeting the economic security needs of the Nation, and (3) the operation of private pension plans including types and levels of benefits, degree of reciprocity or portability, and financial characteristics and practices.

ANNUAL REPORTS

SEC. 507. The Secretary shall submit annually a report to the Congress covering his administration of this Act for the preceding year and including such information, data, research findings, and recommendations for further legislation in connection with the matters covered by this Act as he may find advisable.

ADMINISTRATIVE PROCEDURE ACT

SEC. 508. The provisions of the subchapter II of Chapter 5 of title 5, United States Code, shall be applicable to this Act.

OTHER AGENCIES AND DEPARTMENTS

SEC. 509. In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he

may find to be practicable and consistent with law. The Secretary may utilize, on a reimbursable basis, the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions under this Act. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

SEPARABILITY PROVISIONS

SEC. 510. If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this Act 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.

PENALTIES

SEC. 511. Any person who willfully—

(a) violates any provision of this Act or any rule, regulation, variation, or order issued thereunder,

(b) makes, passes, utters, or publishes any statement in any application, report, document, account, or record filed or kept or required to be filed or kept under the provisions of this Act or any rule, regulation, variation, or order thereunder, knowing such statement or entry to be false or misleading in any material respect,

(c) forges or counterfeits any instrument, paper, or document, or utters, publishes, or passes as true any instrument, paper, or document, knowing it to have been forged or counterfeited, for the purpose of influencing in any way the action of the Secretary or the Pension Benefit Insurance Corporation,

(d) destroys (except after such time as may be prescribed under any rules or regulations under this Act), mutilates, alters, or by any means or device falsifies any account, correspondence, memorandum, book, paper, or other record kept or required to be kept under this Act or any rule, regulation, variation, or order thereunder,

(e) influences or induces or attempts to influence or induce the Secretary or the Pension Benefit Insurance Corporation with respect to any action of the Secretary or the Corporation, by fraud, deceit, misrepresentation, or by any manipulative or deceptive device or contrivance,

shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both, except that in the case of such violation by a person not an individual, the fine imposed upon such person shall be a fine not exceeding $200,000.

ADMINISTRATIVE ASSESSMENTS AND APPROPRIATIONS

SEC. 512. (a) The Secretary shall, pursuant to regulation, assess each plan which is subject to this Act such fees or charges as the Secretary deems appropriate to cover administrative costs incurred by the Secretary, and as are consistent with the policy of title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a; 65 Stat. 290).

(b) There is hereby authorized to be appropriated such sums, without fiscal limitation, as may be necessary to enable the Secretary to carry out his functions and duties under this Act.

S. 4327

A bill to amend the Welfare and Pension Plans Disclosure Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to strengthen and improve the protections for the interests of participants in and beneficiaries of employee welfare and pension benefit plans, under the Act of August 28, 1958, as amended (72 Stat. 997), such Act is amended to read as follows:

"SHORT TITLE, FINDINGS, AND DECLARATION OF POLICY

"Section 1. This Act may be cited as the 'Welfare and Pension Plan Protection Act of 1970.'

"FINDINGS AND POLICY

"SEC. 2. (a) The Congress finds that the growth in size, scope, and numbers of employee welfare and pension benefit plans in recent years has been rapid and substantial; that the continued well-being and security of millions of employees and their dependents are directly affected by these plans; that they are affected with a national public interest; that they have become an important factor affecting the stability of employment and the successful development of industrial relations; that they have become an important factor in commerce because of the interstate character of their activities, and of the activities of their participants, and the employers, employee organizations, and other entities by which they are established or maintained; that owing to the lack of employee information and adequate safeguards concerning their operation, it is desirable in the interests of employees and their beneficiaries, and to provide for the general welfare and the free flow of commerce, that disclosure be made and safeguards be provided with respect to the operation and administration of such plans.

"(b) It is hereby declared to be the policy of this Act to protect interstate commerce and the interests of participants in employee welfare and pension benefit plans and their beneficiaries, by requiring the disclosure and reporting to participants and beneficiaries of financial and other information with respect thereto, by establishing fiduciary standards of conduct, responsibility, and obligation upon all persons engaged in, or responsible for receiving, disbursing, or exercising any control or authority with respect to employee welfare and pension benefit funds, and by providing for sanctions in the case of a breach of such fiduciary standards as well as for recovery of losses suffered by such funds by reason of such breach.

"DEFINITIONS

"SEC. 3. When used in this Act—

"(1) The term 'employee welfare benefit plan' means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits, or benefits in the event of sickness, accident, disability, death, or unemployment.

"(2) The term 'employee pension benefit plan' means any plan, fund, or program which is communicated or its benefits described in writing to the employees, and which was heretofore or is hereafter established by an employer or by an employee organization, or by both, for the purpose of providing for its participants or their beneficiaries, by the purchase of insurance or annuity contracts or otherwise, retirement benefits, and includes any profit-sharing plan which provides benefits at or after retirement.

"(3) The term 'employee organization' means any labor union or any organization of any kind, or any agency or employee representation committee, association, group, or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee welfare or pension benefit plan, or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such a plan.

"(4) The term 'employer' means any person acting directly as an employer or indirectly in the interest of an employer in relation to an employee welfare or pension benefit plan, and includes a group or association of employers acting for an employer in such capacity.

"(5) The term 'employee' means any individual employed by an employer.

"(6) The term 'participant' means any employee or former employee of an employer or any member of an employee organization who is or may become eligible to receive a benefit of any type from an employee welfare or pension benefit plan, or whose beneficiaries may be eligible to receive any such benefit.

"(7) The term 'beneficiary' means a person designated by a participant or by the terms of an employee welfare or pension benefit plan who is or may become entitled to a benefit thereunder.

"(8) The term 'person' means an individual, partnership, corporation, mutual company, joint-stock company, trust, unincorporated organization, association, or employee organization.

"(9) The term 'State' includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(10) The term 'commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place outside thereof.

"(11) The term 'industry or activity affecting commerce' means any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce and includes any activity or industry affecting commerce within the meaning of the Labor-Management Relations Act, 1947, as amended, or the Railway Labor Act, as amended.

"(12) The term 'Secretary' means the Secretary of Labor.

"(13) The term 'party in interest' means any administrator, officer, trustee, custodian, counsel, or employee of any employee welfare benefit plan or employee pension benefit plan, or a person providing benefit plan services to any such plan, or an employer any of whose employees are covered by such a plan or officer or employee or agent of such employer, or an officer or agent or employee of an employee organization having members covered by such plan.

"(14) The term 'administrator' means—

"(A) the person or persons designated by the terms of the plan or the collective bargaining agreement with responsibility for the ultimate control, disposition, or management of the money received or contributed; or

"(B) in the absence of such designation, the person or persons actually responsible for the control, disposition, or management of the money received or contributed, irrespective of whether such control, disposition, or management is exercised directly or through an agent or trustee designated by such person or persons.

"COVERAGE

"SEC. 4. (a) Except as provided in subsection (b), this Act shall apply to any em-

ployee welfare or pension benefit plan if it is established or maintained by an employer or employers engaged in commerce or in any industry or activity affecting commerce or by any employee organization or organizations representing employees engaged in commerce or in any industry or activity affecting commerce or by both.

"(b) This Act shall not apply to an employee welfare or pension benefit plan if—

"(1) such plan is administered by the Federal Government or by the government of a State, by a political subdivision of a State, or by an agency or instrumentality of any of the foregoing;

"(2) such plan was established and is maintained solely for the purpose of complying with applicable workmen's compensation laws or unemployment compensation disability insurance laws;

"(3) such plan is administered by an organization which is exempt from taxation under the provisions of section 501(a) of the Internal Revenue Code of 1954 and is administered as a corollary to membership in a fraternal benefit society described in section 501(c)(8) of such Code or by organizations described in sections 501(c)(3) and 501(c)(4) of such Code: *Provided*, That the provisions of this paragraph shall not exempt any plan administered by a fraternal benefit society or organization which represents its members for purposes of collective bargaining; or

"(4) such plan covers not more than twenty-five participants.

"DUTY OF DISCLOSURE AND REPORTING

"SEC. 5. The administrator of an employee welfare benefit plan or an employee pension benefit plan shall publish in accordance with section 8 to each participant or beneficiary covered thereunder (1) a description of the plan and (2) an annual financial report. Such description and such report shall contain the information required by sections 6 and 7 of this Act in such form and detail as the Secretary shall prescribe and such other information as the Secretary shall determine to be necessary and appropriate to carry out the purposes of this Act, and copies thereof shall be executed, published, and filed in accordance with the provisions of this Act and the Secretary's regulations thereunder. The Secretary may by regulations provide for the exemption from all or any part of the reporting and disclosure requirements of this Act of any class or type of welfare or pension benefit plans, if the Secretary finds that the application of such requirements to such plans is not required in order to effectuate the purposes of this Act.

"DESCRIPTION OF THE PLAN

"SEC. 6. (a) Except as provided in Section 4, the description of any employee welfare or pension benefit plan shall be published as required herein within ninety days of the effective date of this Act or within ninety days after the establishment of such plan, whichever is later.

"(b) The description of the plan shall be published and signed by the person or persons defined as the 'administrator' and shall include their names and addresses, their official positions with respect to the plan, and their relationship, if any, to the employer or to any employee organizations, and any other offices, positions, or employment held by them; the name, address, and description of the plan and the type of administration; the schedule of benefits; the names, titles, and addresses of any trustee or trustees (if such persons are different from those persons defined as the 'administrator'); whether the plan is mentioned in a collective bargaining agreement; copies of the plan or of the bargaining agreement, trust agreement, contract, or other instrument, if any, under which the plan was established and is operated; the source of the financing of the plan and the identity of any organization through which benefits are provided; whether the records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary.

"ANNUAL REPORTS

"SEC. 7. (a) The administrator of any employee welfare or pension benefit plan, a description of which is required to be published under section 6, shall also publish an annual report with respect to such plan if the plan is subject to section 14 of this Act or if it covers one hundred or more participants. However, the Secretary, after investigation, may require the administrator of any plan otherwise covered by the Act to publish such report when necessary and appropriate to carry out the purposes of this Act. Such report shall be published as required under section 8 within one hundred and fifty days after the end of the calendar year (or, if the records of the plan are kept on a policy or other fiscal year basis, within one hundred and fifty days after the end of such policy or fiscal year).

"(b) A report under this section shall be signed by the administrator and such report shall include the following: 'The amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid in what amount, and for what purposes.'

"(c) If the plan is unfunded, the report shall include only the total benefits paid and the average number of employees eligible for participation, during the past five years, broken down by years; and a statement, if applicable, that the only assets from which claims against the plan may be paid are the general assets of the employer.

"(d) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization such report shall include with respect to such plan (in addition to the information required by subsection (b)) the following:

"(1) The premium rate or subscription charge and the total premium or subscription charges paid to each such carrier or organization and the approximate number of persons covered by each class of such benefits.

"(2) The total amount of premiums received, the approximate number of persons covered by each class of benefits, and the total claims paid by such carrier or other organization; dividends or retroactive rate adjustments, commissions, and administrative service, or other fees or other specific acquisition costs, paid by such carrier or other organization; any amounts held to provide benefits after retirement; the remainder of such premiums; and the names and addresses of the brokers, agents, or other persons to whom commissions or fees were paid, the amount paid to each, and for what purpose: *Provided*, That if any such carrier or other organization does not maintain separate experience records covering the specific groups it serves, the report shall include in lieu of the information required by the foregoing provisions of this paragraph (A) a statement as to the basis of its premium rate or subscription charge, the total amount of premiums or subscription charges received from the plan, and a copy of the financial report of the carrier or other organization and (B), if such carrier or organization incurs specific costs in connection with the acquisition or retention of any particular plan or plans, a detailed statement of such costs.

"(e) Details relative to the manner in which any funds held by an employee welfare benefit plan are held or invested shall be reported as provided under paragraphs (B), (C), (D), (E), (F), and (G) of subsection (f)(1).

"(f) Reports on employee pension benefit plans shall include, in addition to the applicable information required by the foregoing provisions of this section, the following:

"(1) If the plan is funded through the medium of a trust, the report shall include—

"(A) the type and basis of funding, actuarial assumptions used, the amount of current and past service liabilities, and the number of employees, both retired and nonretired, covered by the plan;

"(B) a statement showing the assets of the fund which shall be valued on the basis regularly used in valuing investments held in the fund and reported to the United States Treasury Department, or shall be valued at their aggregate cost or present value, whichever is lower, if such a statement is not so required to be filed with the United States Treasury Department;

"(C) a detailed list, including information as to cost and present value, of all investments of the fund, separately identifying investments in securities or properties of the employer or employee organization or any other party in interest;

"(D) a statement of the aggregate purchases, sales, redemptions and exchanges of investment securities (including bonds and debentures) made during the period covered by the report, identified by issuer and by each type of security such as, common stock, preferred stock, bond issues, and so forth, and including information as to the number of shares of stock or the principal amount of bonds or debentures; in the case of purchase, the purchase price; and in the case of sale, redemption or exchange, the cost, proceeds (including a description and value of consideration other than cash, if any), and the net gain (or loss);

"(E) a detailed list of all purchases, sales or exchanges of investment assets other than securities, including information as to the identity of the asset purchased, sold or exchanged (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the asset); the purchase or selling price; expenses incurred in connection with the purchase or sale; the cost of the asset and proceeds, and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, and the identity of the purchaser in the case of a sale, and their relationship, if any, to the plan, the employer, or any employee organization;

"(F) a detailed list of all loans made by the plan during the year and all loans outstanding at the end of the year, separately identifying loans made to the employer or employee organization or any other party in interest, including information as to the identity and address of the debtors, dates made and maturity dates, interest rate, face amount of the loans, amount outstanding at the end of the year, type and value of collateral held, and any other terms and conditions: *Provided, however*, That Veterans' Administration and Federal Housing Administration insured mortgage loans and mortgages on single-unit residences which were

purchased on a block basis from banks or similar institutions need not be listed, nor loans made to plan participants where such loans are available to all participants on a nondiscriminatory basis and are made in accordance with specific provisions regarding loans to participants set forth in the plan, but the total amounts of each category of such loans outstanding at the end of the year shall be reported;

"(G) if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under section 7(f)(1) (C), (D), (E), and (F) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act.

"(2) If the plan is funded through the medium of a contract with an insurance carrier, the report shall include—

"(A) the type and basis of funding, actuarial assumptions used in determining the payments under the contract, and the number of employees, both retired and nonretired, covered by the contract; and

"(B) except for benefits completely guaranteed by the carrier, the amount of current and past service liabilities, based on those assumptions, and the amount of all reserves accumulated under the plan.

"(3) If the plan is funded through the medium of a trust invested, in whole or in part, in one or more insurance or annuity contracts with an insurance carrier, the report shall include, as to the portion of the funds so invested, only the information required by paragraph (2) above.

"(4) If the plan is unfunded, the report shall include the total benefits paid to retired employees for the past five years, broken down by year.

"(g) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier or organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, such reasonable information determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(h) The administrator of an employee welfare or pension benefit plan shall cause an audit to be made annually of an employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted in accordance with accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing an insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by an agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.

"PUBLICATION

"SEC. 8. (a) Publication of the description of the plan and the latest annual report required under this Act shall be made to the participants and to the beneficiaries covered by the particular plan as follows:

"(1) The administrator shall make copies of such description of the plan (including all amendments or modifications thereto upon their effective date) and of the latest annual report available for examination by any participant or beneficiary in the principal office of the plan.

"(2) The administrator shall deliver upon written request to such participant or beneficiary a copy of the description of the plan (including all amendments or modifications thereto upon their effective date) and a copy of the latest annual report, by mailing such documents to the last known address of the participant or beneficiary making such request.

"(b) The administrator of any plan subject to the provisions of this Act shall file with the Secretary a copy of the description of the plan and each annual report thereon. The Secretary shall make available for examination in the public document room of the Department of Labor copies of descriptions of plans and annual reports filed under this subsection.

"(c) The Secretary shall prepare forms for the descriptions of plans and the annual reports required by the provisions of this Act, and shall make such forms available to the administrators of such plans on request.

"ENFORCEMENT

"SEC. 9. (a) Any person who willfully violates any provision of this Act shall be fined not more than $1,000, or imprisoned not more than six months, or both.

"(b) Any administrator of a plan who fails or refuses, upon the written request of a participant or beneficiary covered by such plan, to make publication to him within thirty days of such request, in accordance with the provisions of section 8, of a description of the plan or an annual report containing the information required by sections 6 and 7, may in the court's discretion become liable to any such participant or beneficiary making such request in the amount of $50 a day from the date of such failure or refusal.

"(c) Action to recover such liability may be maintained in any court of competent jurisdiction by any participant or beneficiary. The court in such action may in its discretion, in addition to any judgment awarded to the plaintiff or plaintiffs, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action.

"(d) The Secretary shall have power, when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act, to make an investigation and in connection therewith he may enter such places and inspect such records and accounts and question such persons as he may deem necessary to enable him to determine the facts relative thereto. The Secretary may report to interested persons or officials concerning the facts required to be shown in any report required by this Act and concerning the reasons for failure or refusal to file such a report or any other matter which he deems to be appropriate as a result of such an investigation.

"(e) For the purposes of any investigation provided for in this Act, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents) of the Federal Trade Commission Act of September 16, 1914, as amended (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officers designated by him.

"(f) Whenever it shall appear to the Secretary that any person is engaged in any violation of the provisions of this Act, he may in his discretion bring an action in the proper district court of the United States or United States court of any place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted.

"(g) The United States district courts and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction, for cause shown, to restrain violations of this Act.

"(h) In addition to the rights of action specified above, the Secretary or any participant or beneficiary may bring an action—

"(1) to recover the liability specified in section 14 or to enjoin any acts or practices which constitute or will constitute a violation of section 14 and for such other relief as may be appropriate,

"(2) to remove any person occupying a fiduciary position under section 14 and, pending the replacement of such person, to appoint an appropriate individual to carry out the duties of the person removed, in any district court of the United States and in the United States courts of any place subject to the jurisdiction of the United States where the fund is administered or where the breach took place or where the defendant is an inhabitant or may be found, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the defendant may be found. No proceeding specified in clause (1) or (2) shall be brought by a participant or beneficiary except upon leave of the court obtained upon verified application and for good cause shown which application may be made ex parte. The court in any such action may in its discretion, in addition to any judgment awarded to the participant or beneficiary, allow a reasonable attorney's fee to be paid by the defendant, and costs of the action. Upon the filing of a complaint by the Secretary to enforce the provisions of section 14 or to remove a fiduciary, the jurisdiction of the district court over the subject matter of the action shall be exclusive and the final judgment shall be res judicata.

"(i) The district courts of the United States and the United States courts of any place subject to the jurisdiction of the United States shall have jurisdiction—

"(1) to award the liability specified in section 14, and, for cause shown, to grant injunctive and other appropriate relief in any action involving a violation of section 14,

"(2) to order the removal of any person serving as a fiduciary, and to appoint a replacement pending the appointment or election of a person to fill the vacancy created, if the court finds (A) that such person is failing to carry out his fiduciary responsibilities, or (B) such person is disqualified from serving in a fiduciary capacity under the provisions of section 15.

"(j) In order to avoid unnecessary expense and duplication of functions among Government agencies, the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the functions of any such agency as he may find to be practicable and consistent with law. The Secretary may utilize the facilities or services of any department, agency, or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to provide such information and facilities as he may request for his assistance in the performance of his functions

under this Act. The Attorney General or his representative shall receive from the Secretary for appropriate action such evidence developed in the performance of his functions under this Act as may be found to warrant consideration for criminal prosecution under the provisions of this Act or other Federal law.

"REPORTS MADE PUBLIC INFORMATION

"SEC. 10. The contents of the descriptions and regular annual reports filed with the Secretary pursuant to this Act shall be public information, and the Secretary, where to do so would protect the interests of participants or beneficiaries of a plan, may publish any such information and data. The Secretary may use the information and data for statistical and research purposes, and compile and publish such studies, analyses, reports, and surveys based thereon as he may deem appropriate.

"RETENTION OF RECORDS

"SEC. 11. Every person required to file any description or report or to certify any information therefor under this Act shall maintain records on the matters of which disclosure is required which will provide in sufficient detail the necessary basic information and data from which the documents thus required may be verified, explained, or clarified, and checked for accuracy and completeness, and shall include vouchers, worksheets, receipts, and applicable resolutions, and shall keep such records available for examination for a period of not less than five years after the filing of the documents based on the information which they contain.

"RELIANCE ON ADMINISTRATIVE INTERPRETATIONS AND FORMS

"SEC. 12. In any action or proceeding based on any act or omission in alleged violation of this Act, no person shall be subject to any liability or punishment for or on account of the failure of such person to (1) comply with any provision of this Act if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Secretary, or (2) publish and file any information required by any provision of this Act if he pleads and proves that he published and filed such information in good faith, on the description and annual report forms prepared by the Secretary and in conformity with the instructions of the Secretary issued under this Act regarding the filing of such forms. Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect, or (B) after publishing or filing the description and annual reports, such publications or filing is determined by judicial authority not to be in conformity with the requirements of this Act.

"BONDING

"SEC. 13. (a) Every administrator, officer, and employee of any employee welfare benefit plan or of any employee pension benefit plan subject to this Act who handles funds or other property of such plan shall be bonded as herein provided; except that, where such plan is one under which the only assets from which benefits are paid are the general assets of a union or of an employer, the administrator, officers and employees of such plan shall be exempt from the bonding requirements of this section. The amount of such bond shall be fixed at the beginning of each calendar, policy, or other fiscal year, as the case may be, which constitutes the reporting year of such plan. Such amount shall be not less than 10 per centum of the amount of funds handled, determined as herein provided, except that any such bond shall be in at least the amount of $1,000 and no such bond shall be required in an amount in excess of $500,000: *Provided*, That the Secretary, after due notice and opportunity for hearing to all interested parties, and after consideration of the record, may prescribe an amount in excess of $500,000, which in no event shall exceed 10 per centum of the funds handled. For purposes of fixing the amount of such bond, the amount of funds handled shall be determined by the funds handled by the person, group, or class to be covered by such bond and by their predecessor or predecessors; if any, during the preceding reporting year, or if the plan has no preceding reporting year, the amount of funds to be handled during the current reporting year by such person, group, or class, estimated as provided in regulations of the Secretary. Such bond shall provide protection to the plan against loss by reason of acts of fraud or dishonesty on the part of such administrator, officer, or employee, directly or through connivance with others. Any bond shall have as surety thereon a corporate surety company which is an acceptable surety on Federal bonds under authority granted by the Secretary of the Treasury pursuant to the Act of July 30, 1947 (6 U.S.C. 6–13). Any bond shall be in a form or of a type approved by the Secretary, including individual bonds or schedule or blanket forms of bonds which cover a group or class.

"(b) It shall be unlawful for any administrator, officer, or employee to whom subsection (a) applies, to receive, handle, disburse, or otherwise exercise custody or control of any of the funds or other property of any employee welfare benefit plan or employee pension benefit plan, without being bonded as required by subsection (a) and it shall be unlawful for any administrator, officer, or employee, of such plan, or any other person having authority to direct the performance of such functions, to permit such functions, or any of them, to be performed by any such person, with respect to whom the requirements of subsection (a) have not been met.

"(c) It shall be unlawful for any person to procure any bond required by subsection (a) from any surety or other company or through any agent or broker in whose business operations such plan or any party in interest in such plan has any significant control or financial interest, direct or indirect.

"(d) Nothing in any other provision of law shall require any person, required to be bonded as provided in subsection (a) because he handles funds or other property of an employee welfare benefit plan or of an employee pension benefit plan, to be bonded insofar as the handling by such person of the funds or other property of such plan is concerned.

"(e) The Secretary shall from time to time issue such regulations as may be necessary to carry out the provisions of this section. When, in the opinion of the Secretary, the administrator of a plan offers adequate evidence of the financial responsibility of the plan, or that other bonding arrangements would provide adequate protection of the beneficiaries and participants, he may exempt such plan from the requirements of this section.

"FIDUCIARY RESPONSIBILITY

"SEC. 14. (a) Except as provided in subsection (b), the term 'employee benefit fund', when used in this section, means a fund of money or other assets established pursuant to or in connection with an employee welfare or pension benefit plan or plans and includes contributions to a plan made by employees, either through withholding or otherwise.

"(b) This section shall not apply to—

"(1) an employee welfare or pension benefit plan in which the benefits payable to participants or other beneficiaries are provided solely from the general assets of an employer or of an employee organization;

"(2) premiums or subscription charges for which benefits are guaranteed and which are received by an insurance carrier or service or other organization;

"(3) moneys deposited with an insurance carrier, the repayment of which including interest thereon is guaranteed;

"(4) any investment company registered under the Investment Company Act of 1940.

"(c) An employee benefit fund whenever established, shall be deemed to be a trust fund available only for the sole and exclusive purpose of (1) providing the benefits to participants in the plan and their beneficiaries, and (2) defraying the reasonable costs of administering the plan.

"(d) Every person who receives, disburses, or exercises any control or authority with respect to any employee benefit fund is a fiduciary and occupies a position of trust with relation to such fund and to the participants and their beneficiaries for whose benefit the fund was established. Each such fiduciary shall handle, manage, invest, and expend such fund with the same degree of care and skill as a man of ordinary prudence would exercise in dealing with his own property.

"(e) Except to the extent permitted by subsection (g), no person who is a fiduciary of an employee benefit fund shall—

"(1) sell or lease property of the fund to any employer of employees for whose benefit such fund is established, to any employee organization for whose members such fund is established, or to any official of such employer or employee organization;

"(2) purchase or lease on behalf of the fund any property of such employer, employee organization, or official thereof;

"(3) deal with such fund in his own interest or account;

"(4) represent any other party dealing with such fund, or in any way act on behalf of an adverse party relating to the fund or to the interests of the participants or beneficiaries for whose benefit the fund was established; or

"(5) receive any consideration from any other party dealing with such fund on account of any of the foregoing transactions or dealings whether or not such fiduciary participates in such transactions or dealings on behalf of such fund.

"(f) No loan of money or other assets shall be made from an employee benefit fund to a fiduciary with relation to such fund, or to any relative of such fiduciary, or to his employer, employee, partner, or other business associate, or to a labor organization for the benefit of whose members the fund was established or to any official thereof, or to an employer who contributes to the fund on account of his employees or any official of such employer. For the purposes of this subsection, the term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(g) Nothing in this section shall be construed to prohibit any fiduciary from—

"(1) receiving any benefit to which he may be entitled as a participant or beneficiary in the plan under which the fund was established;

"(2) receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties as a fiduciary of such fund;

"(3) serving as a fiduciary in addition to being an officer, employee, agent, or other representative of an employer whose employees are participants in the plan under which the fund was established, or of an employee organization whose members are participants in such a plan;

"(4) Engaging in the following transactions:

"(A) purchasing on the market on behalf of the fund any security, as defined in the Securities Act of 1933, which has been issued by an employer whose employees are participants in the plan under which the fund was established: *Provided,* That the purchase of any security is for no more than adequate consideration in money or money's worth: *Provided, further,* That if an employee benefit fund is one which provides primarily for benefits of a stated amount, or an amount determined by an employee's compensation, an employee's period of service, or a combination of both, or money purchase type benefits based on fixed contributions which are not geared to the employer's profits, no investment shall be made subsequent to the enactment of this Act by a fiduciary of such a fund in stock or securities of such an employer or of a corporation owned or controlled by such an employer, if such investment, when added to such securities previously held, exceeds 10 per centum of the fair market value of the assets of the fund, regardless of the ability of such an investment to meet a fiduciary test. Notwithstanding the foregoing, such 10 per centum limitation shall not apply to profit-sharing plans, nor to stock bonus, thrift and savings, or other similar plans which have the requirement that some or all of the plan funds shall be invested in stock or securities of the employer.

"(B) selling on the market on behalf of the fund any security, as defined in the Securities Act of 1933, which is acquired or held by the fund, to an employer whose employees are participants in the plan under which the fund was established, to an employee organization whose members are participants in such a plan, or to an officer, employee, agent, or other representative of the foregoing: *Provided,* That the sale of such security is for no less than adequate consideration in money or money's worth;

"(C) for purposes of this paragraph, the term 'on the market' means through a securities exchange, regardless of whether it is a national securities exchange registered with the Securities and Exchange Commission, or a purchase or sale in an over-the-counter transaction.

"(D) for purposes of this paragraph, the term 'adequate consideration' means either (i) at the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (ii) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by current bid and asked prices quoted by persons independent of the issuer.

"(5) making any loan to participants or beneficiaries of the plan under which the fund was established where such loans are available to all participants or beneficiaries on a nondiscriminatory basis and are made in accordance with specific provisions regarding such loans set forth in the plan;

"(6) contracting or making reasonable arrangements with an employer or an employee organization of which he is an officer for office space and other services necessary for the operation of the plans and paying reasonable compensation therefor.

"(h) Any fiduciary in relation to an employee benefit fund who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this section shall be personally liable to make good to such fund any losses to the fund resulting from such breach, and to restore to such fund any profits of such fiduciary which have been made through use of assets of the fund by the fiduciary.

"(i) When an employee benefit fund is held by and under the management and control of two or more trustees each shall participate in the administration of the trust and shall use reasonable care to prevent a cotrustee from committing a breach of trust, or to compel a cotrustee to redress a breach of trust. If there are more than two trustees any power vested in such trustees shall be exercised by no less than a majority of such trustees but no trustee who has not joined in exercising a power shall be liable for the consequences of such exercise: *Provided, however,* That nothing in this provision shall excuse a cotrustee for liability for inactivity in the administration of the trust nor for failure to prevent a breach of trust.

"(j) Each employee benefit plan shall contain specific provisions for the disposition of its fund assets upon termination. In the event of termination, whether under the express terms of the plan or otherwise, such fund, or any part thereof, shall not be expended, transferred, or otherwise disposed of, except for the exclusive benefit of the plan participants and their beneficiaries. Notwithstanding the foregoing, after the satisfaction of all liabilities with respect to the participants and their beneficiaries under a pension plan in accordance with the Internal Revenue Code and regulations promulgated thereunder, any remaining fund assets may be returned to any person who has a legal or equitable interest in such assets by reason of having made financial contributions thereto.

"(k) Any exculpatory provisions in the agreement establishing an employee benefit fund or any resolution or agreement by the parties thereto which purports to relieve any fiduciary with relation to any such fund from liability for breach of the responsibilities, obligations, or duties declared by this section shall be void as against public policy.

"PROHIBITION AGAINST CERTAIN PERSONS HOLDING OFFICE

"SEC. 15. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, violation of narcotics laws, murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 15(b)(5)(B) of the Securities Exchange Act of 1934 (15 U.S.C. 78o–(b)(5)(B)), or in section 9(e)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–9(a)(1)), any crime involving the misuse of the funds of a labor organization or the funds of an employee welfare or pension benefit plan, or a violation of any provision of this Act, or a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended, 29 U.S.C. 186), or a violation of chapter 63 or 73 of title 18, United State Code, or a violation of section 1027 of title 18, United States Code, or a violation of the Labor-Management Reporting and Disclosure Act of 1959 (chapter 11 of title 29, United States Code) or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, or employee of any employee welfare or pension benefit plan, or

"(2) as a consultant to any employee welfare or pension benefit plan,

during or for five years after such conviction or after the end of such imprisonment, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in clause (1) or (2) would not be contrary to the purposes of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the State, County, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final. No person shall knowingly permit any other person to serve in any capacity referred to in clause (1) or (2) in violation of this subsection.

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) For the purposes of this section, any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is the later event, regardless of whether such conviction occurred before or after the date of enactment of this section.

"(d) For the purposes of this section, the term 'consultant' means any person who, for compensation, advises or represents an employee welfare or pension benefit plan or who provides other assistance to such a plan, concerning the establishment or operation of such plan.

"ADVISORY COUNCIL

"SEC. 16. (a) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') which shall consist of thirteen members to be appointed in the following manner: One from the insurance field, one from the corporate trust field, two from management, four from labor, and two from other interested groups, all appointed by the Secretary from among persons recommended by organizations in the respective groups; and three representatives of the general public appointed by the Secretary.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least twice each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the Act's operation and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to the conduct of its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties.

"(d) Appointed members of the Council shall be paid compensation at the maximum per diem rate authorized in the current Department of Labor Appropriation Act for consultant, and experts when such members are engaged in the work of the Council, including traveltime, and shall be allowed travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently and receiving compensation on a per diem, when actually employed, basis.

"ADMINISTRATION

"SEC. 17. (a) The provisions of the Administrative Procedure Act shall be applicable to this Act.

"(b) No employee of the Department of Labor shall administer or enforce this Act with respect to any employee organization of which he is a member or employer organization in which he has an interest.

"EFFECT OF OTHER LAWS

"SEC. 18. (a) In the case of an employee welfare or pension benefit plan providing benefits to employees employed in two or more States, no person shall be required by reason of any law of any such State to file with any State agency (other than an agency of the State in which such plan has its principal office) any information included within a description of the plan or an annual report published and filed pursuant to the provisions of this Act if copies of such description of the plan and of such annual report are filed with the State agency, and if copies of such portion of the description of the plan and annual report, as may be required by the State agency, are distributed to participants and beneficiaries in accordance with the requirements of such State law with respect to scope of distribution. Nothing contained in this subsection shall be construed to prevent any State from obtaining such additional information relating to any such plan as it may desire, or from otherwise regulating such plan.

"(b) The provisions of this Act, except subsection (a) of this section and section 13, shall not be held to exempt or relieve any person from compliance with any Federal or State law imposing obligations, duties, responsibilities, or other standards of conduct with respect to the operation or administration of employee welfare or pension benefit plans; nor, except as explicitly provided to the contrary, shall anything in this Act take away any right or bar any remedy to which participants or beneficiaries are entitled to under such other Federal or State law: *Provided, however,* That no State law shall relieve any persons of the obligations, duties, responsibilities, and standards provided in this Act.

"SEPARABILITY OF PROVISIONS

"SEC. 19. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected.

"EFFECTIVE DATE

"SEC. 20. The amendments made by this Act shall take effect upon enactment of this Act, except that the amendments made by this Act which modify the reporting requirements of section 7 shall take effect one year after enactment or upon publication of implementing regulations in the Federal Register, whichever is sooner."

AMENDMENT OF SECTIONS 664, 1027, AND 1954 OF TITLE 18, UNITED STATES CODE

SEC. 3. Section 664, 1027, and 1954 of title 18, United States Code, are hereby amended so that the term "Welfare and Pension Plan Protection Act" is substituted for "Welfare and Pension Plans Disclosure Act" or "Welfare and Pension Plans Disclosure Act, as amended," wherever these terms appear in sections 664, 1027, and 1954.

The statements, presented by Mr. WILLIAMS of New Jersey, are as follows:

ANALYSIS OF THE PENSION BENEFIT SECURITY ACT OF 1970 (S. 4326)

The proposed legislation would:

1. Establish a minimum standard of vesting of retirement benefits after ten years' service after age twenty-five;

2. Establish minimum funding standards to assure accumulation of assets in line with obligations;

3. Establish a system of plan termination protection to assure payment of benefits in the event of involuntary termination of the plan before it is fully funded;

4. Provide specially designed transitional arrangements for existing plans to provide adequate opportunity to adjust to the new standards;

5. Authorize the Secretary to approve alternative methods of meeting the vesting or funding standards where he finds that these standards result in unreasonable cost or impose unreasonable administrative burdens on a plan or certain types of plans;

6. Provide that the vesting and funding requirements are to be administered by the Secretary of Labor;

7. Establish a Pension Benefit Insurance Corporation, a wholly-owned government corporation within the Department of Labor, to administer the termination insurance program;

8. Provide rule-making and enforcement powers with provision for judicial review of administrative decisions;

9. Authorize the Secretary of Labor to conduct studies of pension plans, including among other things, studies related to portability of pension credits.

Section 1—Title: "Pension Benefit Security Act".

Section 2—Findings and Policy: Congress finds that pension plans are a major factor in the Security of millions of persons; that they are an important factor in commerce, and substantially affect the revenues because of preferred tax treatment; that many do not contain vesting provisions, are not properly funded to pay promised benefits, and do not afford adequate protection in the event of involuntary plan termination; and that minimum standards for vesting and funding and protection of benefits in the event of involuntary termination are therefore needed.

Section 3—Definitions.

Section 4—Coverage: The Act will apply to any pension plan in interstate commerce of which uses any means or instruments of transportation or communication in interstate commerce or the mails, if the plan is established or maintained by an employer or employers alone or with an employee organization. The Act will not apply to plans administered by a government unit or agency, or to a plan established outside of the United States for non-citizens, or to certain plans established for the benefit of a proprietor or a partner.

In addition, the funding and insurance requirements of the Act will not apply to unfunded plans, profit-sharing plans, or plans which have fixed contribution rates but no fixed benefits. The vesting provisions will apply to all such plans, however.

TITLE I—VESTING

Basic standard: Full vesting after ten years of employment after age 25.

Transition rules—Existing plans are permitted to: 1. Vest only benefits based on service after the effective date of the standard for any employee with 10 years service, or

2. Vest an increasing proportion of benefits for past and future service for any employee with 10 years service (first year—10 percent; tenth year—100 percent), or

3. Vest benefits for past and future service, beginning in the first year for employees with 20 or more years of service reducing gradually to employees with ten or more years of service after the tenth year.

Transition rules—New plans are permitted to: 1. Vest benefits for past and future service beginning in the sixth year of the plan's operation for employees with 15 or more years of service, reducing gradually to employees with ten or more years of service after the tenth year of the plan's operation, or

2. Vest an increasing proportion of benefits or past and future service, with 50% of the benefits for 10 years of service (in the sixth year of the plan's operation) and reaching 100% of benefits after the tenth year of the plan's operation.

Limitation on vested benefits: Only regular retirement benefits are vested, not ancillary benefits such as death or "special" early retirement benefits.

Service conditions: Continuous service may be required in order for benefits to vest but safeguards are adopted to prevent artificial breaking of service.

Calculation of vested benefits: Proportionate credit rule will apply under which the vested employee is entitled to his prorated share of the benefit he would have attained had he remained under the plan until retirement.

Distribution of vested benefits: Not later than age 65—To facilitate notification of vested benefits, information on employees terminating with vested benefits will be furnished to the Secretary, HEW, for use at time individual applies for Social Security benefit.

Age and service requirements for plan eligibility: Maximum requirement permitted will be age 25 and three years of service; existing plans may retain current eligibility requirements until plan is amended but not beyond ten years after enactment of this Act.

Contributory plans: Employer-purchased benefits are vested even though the employee is permitted to withdraw his contributions.

Enforcement: The Secretary of Labor may require a certificate of approval for a plan's vesting provisions. Once such a certificate is required, it is unlawful to operate a plan without such a certificate.

TITLE II—FUNDING

Funding standards

Basic approach: To continue the present Internal Revenue Service minimum funding standard as a basis for prescribing a plan's minimum annual contribution but to introduce an additional funding standard as a more meaningful basis for plan termination protection.

Termination funding standard: Built around a plan's funding ratio of plan assets to vested liabilities—a schedule is established under which a plan's funding ratio is expected to increase at a rate of 4 percentage points annually, reaching 100 percent (full funding of vested liabilities) after 25 years.

Transition rule for existing plans: Existing plans are accepted into the funding schedule at their current ratio, if this is lower than the funding target specified in the schedule; in addition, for the first five years after the standard is effective, the scheduled increase in the funding target is at the rate of 3 percentage points annually.

Transition rule for new plans: No funding target for first five years at which point the funding is 20 percent.

Implementing the funding standards

Periodic testing: Each plan will submit basic information on funding status every three years and whenever plan is amended to increase vested liabilities.

Amendments: Funding target can be adjusted after amendments which add to vested liabilities; amendments which increase liabilities by more than 25% may be treated as new plans with new funding targets.

Enforcement: Plans failing to meet IRS minimum funding standard would be required to make accrued benefit rights nonforfeitable (essentially the same as current rule).

Plans failing to meet termination funding standard (1) could not liberalize benefits, (2) would have to inform each employee of effect of funding deficit on his vested benefit, and (3) make such additional reports to the Secretary as are necessary. If a plan

fails to meet funding standard for five years, the Secretary can order the plan to suspend further accumulation of vested liabilities. He may do this earlier at his discretion. The Secretary may further require by order the termination of a suspended plan to protect the interests of participants.

TITLE III—VESTED LIABILITY INSURANCE

Basic concept: Full protection for employees' vested benefits against involuntary plan termination through a system providing insurance and enforceability of employer contributions to meet termination funding standard.

Method of providing protection: For plans meeting termination funding standard, vested benefits would be insured—plans not meeting termination funding standard would not be permitted insurance coverage for the amount by which their funding fell short of funding target but in event of plan termination, employing unit, if solvent, would be liable for this amount; otherwise such amount would be covered by insurance.

Insurance procedures: Insurance will be obtained on a three year basis predicated on the report of the plan's funding status.

Amount of insurance: Total vested liabilities less the greater of 90 percent of the actual assets or the assets needed to meet the funding ratio under title II. The 90 percent of assets requirement is intended to provide a uniform limited hedge against loss due to market depreciation of assets.

Premium: Plans would pay premium based on uniform percentage of unfunded vested liabilities—maximum premium rate for initial three-year period is 0.6 percent.

Payment of claims: Claims against insurance fund to be honored only upon essentially involuntary plan termination caused by financial difficulty or bankruptcy, plant closing affecting 20% or more of the vested liabilities of the firm's pension plans, or order of the Secretary—claims to be paid by the purchase of annuities or other approved arrangement.

Additional restrictions on insurance coverage: Benefits created by amendments will not be insured for three years—benefits accruing to participants owning 10 percent or more of the firm will not be insured.

Enforcement: Unlawful to operate a plan without required insurance.

TITLE IV—PENSION BENEFIT INSURANCE CORPORATION

Establishment of Corporation: A wholly-owned Government corporation under the supervision of the Secretary of Labor is established to administer the termination insurance provisions of title II. The management of the Corporation is vested in a five-man board of directors, two of whom shall be the Secretaries of Labor and Commerce serving ex officio. The other three directors, including the Chairman, are to be appointed by the President with the advice and consent of the Senate, and shall serve for a term of six years. No more than three members of the Board of Directors can be of the same political party.

A five-member Technical Advisory Committee on Pension Benefit Insurance is created to advise the Corporation, the members to be appointed by the Secretary after consultation with the Secretary of Commerce.

Powers of Corporation: The Corporation, in addition to possessing general corporate powers, is specifically authorized to: (1) establish adequate premium rates, (2) establish procedures for the application, renewal and cancellation of insurance, (3) collect premiums and manage and invest its funds, (4) adjust and pay claims, (5) conduct research relating to pension plan insurance, and (6) bring actions to enjoin insurance violations.

Financing and administration: To finance the Corporation a revolving fund is established to which premium payments shall be made and from which claims, Payments, and expenses shall be paid. The Corporation may also receive appropriations for capital which shall be repayable with interest.

Personnel of the Corporation are to be appointed in accordance with the civil service laws. The Corporation must file annual reports. The Government Corporation Control Act is made applicable to the Corporation.

TITLE V—ADMINISTRATION, CIVIL PROCEEDINGS, AND MISCELLANEOUS PROVISIONS

Variations: Relief from the vesting and funding standards may be provided if such standards would impose unreasonable administrative burdens. In general, this relief would be provided only for temporary periods. However, with respect to the vesting standards, broadly based multi-employer plans could apply for permanent variation relief based on their experience in granting transfer rights to employees changing employers within the plan. A Variation Appeals Board is established to review decisions denying such relief.

Administration: The Secretary is authorized to promulgate rules and regulations; the Administrative Procedure Act is made applicable to the Act. The Secretary is authorized to assess and collect an appropriate user charge to cover costs in administering this Act.

The Secretary is authorized to conduct studies into all phases of pension plans, including such important areas as portability of vested credits and plan financial practices. In addition, the Secretary is authorized to cooperate with all other agencies and to utilize their facilities (on a reimbursable basis) to assist him.

Enforcement: The Secretary is authorized to conduct investigations into violations of the vesting and funding requirements, or to assist him in prescribing rules or regulations or making studies. He may bring action for injunctive or other appropriate relief in federal district courts with respect to violations of the vesting and funding provisions. Judicial review in the federal district courts is provided for all orders and administrative decisions made by the Secretary or the Corporation.

Criminal penalties are provided for willful violations of any provision of the Act, for making false statements or records, for forging or counterfeiting documents for purposes of influencing the Secretary or the Pension Benefit Insurance Corporation, for destroying or falsifying records or for practicing fraud or deceit on the Secretary or the Pension Benefit Insurance Corporation for the purpose of influencing any of their actions. The penalties provided are a fine of $10,000 or imprisonment for not more than five years or both, except that in the case of a corporation, the fine can be as high as $200,000.

EFFECTIVE DATE

The vesting, funding, and insurance provisions become effective 2 years after enactment; all other provisions become effective upon enactment.

ANALYSIS OF MAJOR OBJECTIVES OF AMENDMENTS TO WELFARE AND PENSION PLANS DISCLOSURE ACT IN THE WELFARE AND PENSION PLAN PROTECTION ACT OF 1970 (S. 4327)

The changes contemplated by the proposed amendments to the Welfare and Pension Plans Disclosure Act fall in three categories:

1. The prescription of fiduciary responsibilities and duties upon persons handling welfare and pension funds; the imposition of civil liability for a breach of such duties and responsibilities; provision for the remedy of such breaches by civil action, including the right to recover funds lost by reason of the breach; and disqualification of persons convicted of certain crimes from serving in a fiduciary capacity with respect to welfare and pension funds.

2. Collateral changes in the existing law necessary to enforce and implement the new provisions relating to fiduciary responsibility. These changes expand the investigatory and enforcement powers of the Secretary of Labor and expand the financial reporting requirements to aid in implementing the provisions concerning fiduciary responsibility.

3. Minor technical modifications of the law.

The provisions of this bill pertaining to fiduciary responsibility are similar to the general principles and rules evolved by courts of equity for the governing of the conduct of trustees, with certain modifications deemed to be appropriate and desirable in the operation of the particular types of funds covered under the bill.

The imposition of a fiduciary responsibility on persons handling welfare and pension funds is necessary to protect the funds and the interests of the participants and their beneficiaries from losses arising from lack of ordinary care and prudence in the management and investment of the funds. Existing Federal law makes theft, embezzlement, bribery and kickbacks in connection with welfare and pension plans Federal crimes; but it does not deal with breaches of fiduciary responsibility except to the limited extent that the Internal Revenue Code provides that the tax-exempt status of a pension fund may be lost if the investments made by the trustees constitute so-called prohibited transactions within the meaning of the Code. These provisions of the Code have not proved adequate to the task of maintaining fiduciary responsibility particularly since use of this sanction in effect penalizes the participants and beneficiaries perhaps more severely than the persons responsible for the prohibited transactions.

Legal protection against breaches of truth has generally been left to State law. However, the mere labeling of employee benefit funds as "trust funds" does not by itself impose on the persons handling such funds the law regulating the duties of a trustee. The terms of the plan, trust agreement, or other agreement under which the fund is established and operated may relieve such persons of duties which otherwise the law would regulate and define. Moreover, there is considerable uncertainty under existing law as to whether, and to what extent, participants of the plan have enforceable rights against the plan or the administrators.

The proposed bill, therefore, by its terms prescribes the duties and responsibilities of the persons defined therein as "fiduciaries" so that the terms of the plan, trust, or other agreement under which the fund is established and operated cannot immunize such persons or relieve them from liability for the breach of their fiduciary duties and responsibilities.

In order to establish effective sanctions, the bill expands the investigatory and enforcement powers of the Secretary of Labor. While the bill also creates civil remedies for participants and beneficiaries with respect to breaches of trust, self-policing of benefit funds on their part is not a sufficient nor adequate method of insuring that such funds are not misused. In addition, it is necessary to insure that criminal elements do not infiltrate the management and operation of these funds. Accordingly, there is a specific prohibition against certain convicted criminals serving in a fiduciary capacity.

Further and more detailed disclosure as to the financial operations of these funds is a necessary complement to the imposition of fiduciary responsibility. It is well-established that fiduciaries are required to give a detailed accounting of their stewardship. Present disclosure provisions limit the amount and type of financial information re-

garding these funds. It is essential that further disclosure be obtained so as to provide participants and beneficiaries with an adequate basis for evaluating the fiduciary's performance of his obligations.

Finally, experience in administering the present law has demonstrated that minor technical amendments are needed to resolve certain details of procedure and to otherwise make the law more workable.

S. 4328—INTRODUCTION OF A BILL TO EXPAND THE JURISDICTION OF FEDERAL DISTRICT COURTS TO PROTECT FIRST AMENDMENT CONSTITUTIONAL RIGHTS

Mr. TYDINGS. Mr. President, I introduce today a bill to expand the jurisdiction of Federal district courts to issue injunctions against those who by physical force or disruptive tactics interfere with the first amendment rights of others. This bill provides the full power of the Federal judiciary, as recommended by the President's Commission on the Causes and Prevention of Violence, to protect fundamental rights against disruption and violence by private or public persons.

No one can help but note the increase of violence in our society. Whether it be street rioting, student battles, or individual bombing, our Nation is beset with increasing resort to physical force aimed at disruption and disorder. Such a trend threatened the very heart of our democratic procedures. No system of free speech, persuasion, and majority rule can exist in a climate of violence and disruption. Violence breeds hatred and division; it creates only unreason and distrust. It cannot be constructive. Violence brings only more violence.

Disruption and violence are antidemocratic and morally indefensible. No matter how strong his beliefs, no one has a right to disrupt and destroy. No one has a right to shout down speakers with whom he disagrees or to break up a school session, a church service, or a public meeting. No one has the right to take the law into his own hands.

Much of the disruption and disorder comes from a few who evidently would like to destroy our democratic processes. Others either do not understand the responsibilities of democratic citizenship or take them too lightly. So I think our Nation must reassert its respect for its own constitutional principles and strengthen its enforcement of them.

The key constitutional principle of our system—and the one most under attack—is the first amendment's guarantee of free speech, free assembly, and the petition of the Government for redress of grievances. Without these protections, our society will no longer be free.

Most disturbing is the fact that a few radicals and protesters have gone beyond the law and have repeatedly violated the constitutional rights of the law-abiding citizen. Examples are, unfortunately, easy to give—students interrupt classes or seize buildings, ending school for all the other students; or they threaten teachers or blackmail administrators, demanding that their ideas and programs be followed. Radicals break up or interrupt meetings or speeches of local civic groups or private groups, or they disrupt the meeting of local officials. Some dissidents have stopped church services. Civic parades, veterans gatherings, business meetings have all been threatened. All of these incidents are examples of our constitutional rights being arrogantly ignored by a few.

In order to bolster our constitutional protections and rights from a few who would violate them, I am introducing today a bill to give Federal district courts jurisdiction to enjoin interference with first amendment rights. Individuals whose rights have been infringed or are about to be infringed by private or public persons can go to court and seek to halt interference

First, with the orderly conduct of any meeting, address, discussion, worship, or other assembly, or with the free passage of persons or the conduct of business or research in any street, building, or other place incidental to the exercise of the constitutional rights of religion, speech, press, assembly, or petition; or

Second, with the exercise by any person or group, by demonstration, picketing, publication, or other means, of the rights of free speech, free press, peaceable assembly, or petition to the Government for redress of grievances.

Thus those who try to break up meetings or lectures, who occupy buildings, or who try to interrupt marches or demonstrations will meet the full force of Federal law. This is proper, for our strongest Federal institutions should be used to protect our most important freedoms.

This bill does not create any new first amendment rights; rather, it grants a new and effective remedy for those precious rights. Under this bill, both private and public parties, if they have been or will be injured, may go to court. And injunctions will prohibit the interference of their constitutional rights by official or private acts. These court injunctions will protect freedom of speech and assembly from violation whether or not the interference is under color of law or not.

Further, this legislation protects the first amendment freedoms of everyone—those of the majority and the minority. Any group of dissidents or radicals who try to disrupt a parade, to seize a school building, to shout down a speaker, or to end a church service can be enjoined. Also, any unpopular or minority group that wants to be heard, to march, or to speak will be protected against a mob or officials who would seek to quiet this group.

This bill does not try to handle the problem of violence and disruption in our tense times by narrowing our freedoms. To the contrary it strengthens our freedoms by creating more power to protect them. This bill will not silence debate, but encourage it. It will not halt protest or dissent, but merely keep it within constitutional limits.

The legislation seeks to stop those who abuse our free society—those who break the law and interfere with others' constitutional rights.

Hopefully this remedy of Federal court injunction will be effective. The full prestige and power of our Federal legal system will be used. To enforce our laws against those who ignore them, we will use the orderly processes of a democratic society. And one of the basic principles of that system, free speech, itself is being invoked. To defy such a court injunction, disrupters would have to reject not only property rights and trespass laws, which some of the alienated feel are unimportant when protest is involved, but also reject the very foundations of a free society.

Present State law deals inadequately with this problem. Trespass statutes and disorderly conduct laws in most cases are ill suited or irrelevant to the full sweep of first amendment protections. These laws are just not written to deal with the complex problems of handling demonstrations. And the most fundamental freedoms of the Constitution should be dealt with in our Federal courts. They are best suited to develop uniform and complex precedents in this area, and they can deal most effectively and fairly with the enforcement of these injunctive powers.

On the Federal level at present, the most nearly effective Federal remedy available today for forcible interference with first amendment rights is a court injunction under 42 U.S.C. 1983, a Reconstruction era statute creating liability for "deprivation of any rights, privileges, or immunities secured by the Constitution and laws" by any person "under color of" State law. In the landmark case of *Hague* v. *CIO*, 307 U.S. 496 (1939), the Supreme Court upheld under section 1983 a Federal district court injunction against an antiunion campaign involving interference with free speech and assembly by the mayor, police chief, and other officials of Jersey City, N.J.

But section 1983 does not specifically enumerate and define the first amendment freedoms to be protected or the kinds of interference against which they are protected. It does not, in the first amendment context, adequately establish the right to relief from threatened violations as opposed to violations that are already in progress. Most importantly, in instances in which private individuals and groups—not public officials—obstruct free speech, peaceful assembly and petition, such conduct cannot be reached under section 1983, since the interfering individuals are not acting under color of law.

The limitation of section 1983 to State action stems from the jurisdictional statute. The type of action in the bill I have introduced to protect against private interference of constitutional rights is fully constitutional. Of course, in the civil rights cases, 109 U.S. 3 (1883), Justice Bradley narrowed the scope of the 14th amendment to State action, in spite of the eloquent protests of Justice Harlan. But this position was reversed when six members of the Supreme Court held that Congress could legislate against private interference of constitutionally protected rights in *Guest v. United States*, 383 U.S. 745 (1966):

> There now can be no doubt that the specific language of § 5 [of the Fourteenth Amendment] empowers the Congress to enact laws punishing all conspiracies—with

or without state action—that interfere with Fourteenth Amendment rights. (Justice Clark, with whom Justices Black and Fortas join, concurring.) (383 US 745, 762).

A majority of the members of the Court expresses the view today that § 5 empowers Congress to enact laws punishing *all* conspiracies to interfere with the exercise of Fourteenth Amendment rights, whether or not state officers or others acting under the color of state law are implicated . . . § 5 authorizes Congress to make laws that it concludes are reasonably necessary to protect a right created by and arising under that Amendment. . . .

Some decisions of this Court . . . have declared Congress' power under § 5 is confined to the adoption of "appropriate legislation for correcting the effects of . . . prohibited state law and state acts. . . ." I do not accept—and a majority of the Court today rejects—this interpretation of § 5. (Justice Brennan, with whom the Chief Justice and Justice Douglas join, concurring.) (383 US 745, 782–83).

See also *Adickes* v. *S. H. Kress and Co.*, 398 U.S. 144, 208 (1970)—Brennan, J., concurring.

Congress has explicitly relied upon this power of section 5 of the 14th amendment when, as part of the 1968 Civil Rights Act, it barred private interference with the right to vote or to participate in various other Federal and State benefits. So now 18 United States Code 245(b) reads:

Whoever, whether or not acting under color of law, by force or threat of force, willfully injures, intimidates or interferes with . . .

See also Senate Report No. 721, 90th Congress, second session. (1968): *Jones* v. *Mayer Co.*, 392 U.S. 409, 438 (1968).

The President's Commission on the Causes and Prevention of Violence specifically recommended that this type of Federal remedy be created. In its final report, "To Establish Justice, To Insure Domestic Tranquility," the Commission stated:

Society's failure to afford full protection to the exercise of these rights is probably a major reason why protest sometimes results in violence. Although these rights are expressly safeguarded by the Federal Constitution, the existing remedies available to aggrieved persons are not adequate. The only approximation to an effective remedy at the federal level is a court injunction authorized under 42 U.S.C. sec. 1983, a Reconstruction era civil rights statute that creates a private cause of action for the "deprivation of any rights, privileges, or immunities secured by the Constitution" by any person acting "under color of" state law. The relative ineffectiveness of this private remedy is indicated by the rarity with which injunctions have been sought in the thirty years since the statute was first interpreted to apply to interference with First Amendment rights. Moreover, state officials acting under color of state law are not alone in posing threats to First Amendment rights; on college campuses, for example, the protesters themselves have obstructed free speech and peaceful assembly. No present federal law affords a remedy for private abridgement of First Amendment rights.

Accordingly, we recommend that the President seek legislation that would confer jurisdiction upon the United States District Courts to grant injunctions, upon the request of the Attorney General or private persons, against the threatened or actual interference by any person, whether or not under color of state or federal law, with the rights of individuals or groups to freedom of speech, freedom of the press, peaceful assembly and petition for redress of grievances. (Page 77–78.)

This bill will not solve the problem of violence and disruption in our society. And it will not fully protect our first amendment freedoms. But it shall be an important step in doing both. We should turn to our processes of law to reinforce and protect our most precious rights. In these times, we should protect free speech and dissent and end interference with them. This is the prerequisite of a free society. I think this bill is a good beginning in that task.

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

The bill (S. 4328) to improve judicial machinery by providing the district courts with jurisdiction over certain types of civil actions, and for other purposes; introduced by Mr. TYDINGS, was received, read twice by its title, and referred to the Committee on the Judiciary.

S. 4331—INTRODUCTION OF THE MOTOR VEHICLE INFORMATION ACT

Mr. HART. Mr. President, those who wish to dramatize the significance of auto ownership are fond of saying that—next to a house—the car represents the largest investment a consumer ever makes.

That does give perspective. It is impressive.

But, it understates the cost.

A Department of Transportation study determined that if a consumer drove one $3,300 car over its 10-year lifespan, the total cost would be almost $12,000. It would be greater if crash repairs, insurance deductibles and finance and interest charges were included.

Because most of us own cars over a 40-to-50-year span, the total outlay is obviously more like $50,000—far more than the investment in the average family home.

In a Nation where the average family income is $10,577, the burden that $1,200 in annual car support puts on many consumers is clear. Yet, consumers have little choice. For most a car is a necessity. In fact more than 25 percent of our families have two cars and 82 percent of commuting workers rely on their car to get them back and forth to work.

About 3 years ago, in response to many consumer complaints, the Senate Antitrust and Monopoly Subcommittee undertook a study to find out why a part of the cost of owning a car—insurance—was so high.

We were only ankle-deep in that study when it was clear that a close look at the role repair costs play in the total tally would be desirable.

These were not casual studies. Together, they produced 12 volumes, encompassing the testimony of more than 150 witnesses, statements submitted by dozens of others, reports, studies and other exhibit material.

In a nutshell, we determined:

That about $15 billion of the $45 to $55 billion spent annually for auto repairs and auto insurance buys little or no value.

Conservatively, $8 to $10 billion goes for auto repairs that are unneeded, undone or improperly done. Several billion goes to buy auto insurance that duplicates other insurance coverage—such as medical or protection of lost income. And we are only getting about half the compensation for injury and death under the present insurance system that we could buy with the same $12 billion outlay under another system.

Worse, the compensation under the present system is frequently inadequate. A DOT study showed that small claimants were overcompensated—with $500 claims settled for four and one-half times their value. Yet, serious losses were undercompensated—with claimants with $25,000 losses getting only 30 percent back.

And, the ones most desperately needing the money must wait the longest to get any. The average delay in settlement on claims over $2,500 was 19 months.

Obviously, changes are needed.

Today I am suggesting one set—in the Motor Vehicle Information Act. I offer it on behalf of myself and the senior Senator from Indiana (Mr. HARTKE). This bill zeros in on the car itself—trying to cut its contribution to high insurance and maintenance costs.

While the bill focuses on economic losses—it also would do a great deal to cut the number of injuries and deaths.

In a few days, I will propose three bills aimed at reforming the insurance system.

Many will find these bills short of perfection. I am in that camp myself. Hearings on the bills and debate I am confident will improve them. But they represent time, thought, and effort, and are the result of discarding other solutions which seemed more imperfect.

The purpose of introducing these bills now is to allow interested parties to study them, to point out any flaws, and to suggest their ideas of better ways to meet the problems.

If that process begins now, we can hope for early legislative hearings next Congress.

The bill I introduce today basically would do three things:

First. Require rating of cars for relative susceptibility to damage in low-speed collisions;

Second. Strengthen and implement vehicle inspection standards, and

Third. Establish a nationwide uniform titling system.

Mr. President, about 55 percent of the Nation's insurance premiums pay for protection against damage to cars. Forty-five percent covers potential damage to persons.

About $3.8 billion of the $6.6 billion paid out by the insurance industry in 1968 went to repair crash-damaged cars. Consumers paid $385 million more in deductibles out of their own pockets.

In our hearings, we learned that 75 percent of crash claims paid by the insurance industry are under $200. That is a bit startling to a people conditioned to think of an "auto accident" as a twisted pile of metal pictured on the front page of a newspaper. More startling is the fact that when the Insurance Institute of Highway Safety crashed four popular

models of 1969 sedans at 5 miles an hour into a solid barrier, the average amount of damage was $200.

So—if we are trying to protect consumers against high insurance premiums for collision coverage and to keep the frustration of dents, dings and laid up cars from their lives, we should reduce the "little accidents."

What we need are cars that pull away from low-speed collisions virtually unscathed.

Two roads to that destination are apparent. We could regulate the design of cars by government edict—much as the safety amendments do. Or, we could turn industry loose and let the company that produces the toughest car reap the rewards for its ingenuity.

Both as the senior Senator from Michigan and the chairman of the Senate Antitrust and Monopoly Subcommittee, "competition" won my vote.

For I know—and have deep respect for—the way this industry can solve problems presented it. And Government regulation, in my book, is truly the court of last resort because of its many drawbacks.

So, this bill is aimed at the production of cars which will survive low-speed collisions by encouraging a market for them. Thus, the marketplace itself—aided only by a requirement for information much like that supplied by other consumer products—will handle the problem itself.

Under the bill, manufacturers would report to the Department of Transportation—and prospective buyers—how each model of a car likely would fare in a collision.

Insurance companies would assign lower collision premiums to those cars which would cost them less in repairs. Consumers, seeking the lower premiums and to save deductibles, would buy the cars making these things possible.

This is in keeping with the philosophy of telling consumers the true interest on loans or the weight and contents of packaged goods, so they may make rational buying decisions.

Our information is that it is now possible to develop a system for evaluating the crash damage a particular model would incur—and that this does not necessarily mean each car would have to be crashed.

However, there is debate as to how reliable at this point any system would be in determining the anticipated injury to occupants in collisions.

Therefore, the bill directs the Secretary of the Department of Transportation to conduct a feasibility study of this aspect. If such a system cannot be developed, he is to tell Congress by July 1, 1972. If it can, he is to proceed to implement the testing and require the results be made public.

Mr. President, the second section of the bill—requiring inspection—also seeks to save money through loss prevention. But it goes further and promises the consumer some assurance that he gets a full dollar's value for money spent on used cars and repairs.

Back in 1966, with the safety bill, Congress decided that a national system of periodic motor vehicle inspection and registration was necessary. It directed the Secretary of Transportation to issue standards and to require such programs be operating in each State by mid-1968. Twenty-one States had inspection programs in 1966. Ten have enacted them since. However, none of the remaining 19 have lost the 10 percent of their Federal highway construction funds—a penalty Congress instructed the Department of Transportation to impose effective January 1, 1970.

The lackadaisical implementation of Congress' decree is disappointing. This bill not only insists that the will of Congress no longer be frustrated but strengthens the inspection standard.

It requires that all vehicles be inspected before being sold to a consumer and after safety-related crash repairs.

Mr. President, more than 32 million consumers buy a new or used car each year.

Probably in no other purchase does the average consumer understand less what he is buying—and yet he is paying out hundreds or thousands of dollars. Thousands of letters received by the subcommittee in the past 2 years, show that surprisingly even the new cars frequently are not up to snuff on delivery. How much better it would be—for the consumer and the dealer—if the hidden defects were uncovered before sale. Certainly this appraisal would be of even more obvious value when we are talking of the 22 or more million used cars.

The inspection process would be equally useful in checking out the competency of repairs—another area the consumer cannot judge for himself. And $25 to $30 billion is paid out each year for repairs. Yet, testimony before the subcommittee was that conservatively one-third or more of that work is not done properly. And, if it does not result in an accident the consumer winds up returning two or three times to finally get it corrected.

For too long, those seeking reasons for accidents have looked to the driver, the road, or the weather. Seldom have they looked to the car. Statistics on how many accidents are caused by defects in cars are hard to come by—because of this lack of emphasis. However, there is an increasing body of evidence pointing to the vehicle as a contributor to our rising accident rate.

A study, done by the Automobile Club of Missouri, indicated that safety defects in cars is frightenly common. Based on inspection of 10,000 cars, the report showed 43.9 percent of the then-current models—1968's—driven less than 500 miles—had potentially dangerous defects. The figure rose to 92 percent of cars 5 years old.

Our hearings demonstrated that not only are consumers hard put to know what is wrong with their cars—or if they are repaired correctly. Testimony showed that a substantial number of auto mechanics were themselves unable to diagnose the trouble with today's complex machines. Thus, part of this bill is a requirement for standards so cars manufactured after January 1, 1975, will be designed so they are easier to inspect, diagnose, and repair.

The inspection facilities established under this bill also could be available to consumers who might want an expert diagnosis before taking the car in for maintenance repairs.

This would enable more rational decisions on whether the car is worth repairing. It would also encourage shopping around for the best quality repair at the best prices.

Such shopping is difficult—if not impossible—today when the mechanic frequently has your car in pieces on the garage floor before he sadly announces it may take a couple of hundred dollars to make it right.

The final section of the Motor Vehicle Information Act provides that a uniform titling act be enacted by the seven States which do not now have one.

In 1968, 871,000 cars were stolen, one-third of them are never recovered. This form of crime in the streets is costing insurance companies $1.6 billion in annual losses. The impact a titling law can have on these figures can be easily demonstrated: In States that have titling acts, an average of 86 percent of cars are recovered, compared with 51 percent in New York which has no title law.

Mr. President, it would be puffing for a senior Senator from Michigan to sing the praises of the automobile—and how this Nation moves on wheels. Consumers for years have had a love affair with their cars. Many other things would be sacrificed before a family would face the prospect of life without a car. But in recent months or years, consumers have suspected that despite its great value to them, owning a car was costing more than necessary.

The subcommittee investigation of auto repairs and auto insurance proved that suspicion well founded. It also showed ways to lighten the burden.

This bill is offered as a means, a necessary step to that end.

Mr. President, I ask unanimous consent that the Motor Vehicle Information Act be printed at this point in the RECORD.

Now, Mr. President, the distinguished Senator from Washington (Mr. MAGNUSON) had intended to speak on this bill at this time. Official business prevents him coming to the floor and I ask unanimous consent that his remarks be printed at this point in the RECORD.

The PRESIDING OFFICER (Mr. SPARKMAN). The bill will be received and appropriately referred; and, without objection, the statement of the Senator from Washington (Mr. MAGNUSON) will be printed in the RECORD.

The bill (S. 4331) to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to promote competition among motor vehicle manufacturers in the design and production of safe motor vehicles having greater resistance to damage, and for other purposes, introduced by Mr. HART (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Commerce.

The statement of Mr. MAGNUSON is as follows:

Mr. President, I am very pleased to join with Senator Hart and others in sponsoring the Motor Vehicle Information Act.

The concepts underlying this bill are logical extensions of the National Highway and Motor Vehicle Act of 1966 and are greatly needed additions to it. The original act was intended to bring safer vehicles onto our Nation's highways. The Motor Vehicle Information Act is intended to increase auto safety and to bring additional economic benefits to auto purchasers. It would assure the American consumer that his automobile—whether new or used—is safe when he buys it. It would stimulate dissemination of information about comparative risks of accident injury for various makes and models of vehicles. Further, it would provide information to both consumers and insurance companies on the costs of repairing various makes and models of automobiles, hopefully giving manufacturers incentive to make cars that will be cheaper to repair—and to insure.

Of course, although the bill introduced today is the result of careful drafting and is based on extensive hearings, I expect it to be refined and altered as a result of hearings and deliberation on it. Therefore, I support this bill as a working paper and as a way of bringing its concepts before Congress.

ADDITIONAL COSPONSORS OF BILLS

S. 3619

At the request of the Senator from Alabama (Mr. ALLEN), his name was added as a cosponsor of S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

At the request of the Senator from Mississippi (Mr. STENNIS), his name was added as a cosponsor of S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

At the request of the Senator from Louisiana (Mr. ELLENDER), his name was added as a cosponsor of S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

S. 3927

At the request of the Senator from Michigan (Mr. HART), the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 3927, to revise and clarify the Federal Aid in Wildlife Restoration Act and the Federal Aid in Fish Restoration Act, and for other purposes.

S. 3939

At the request of the Senator from Illinois (Mr. SMITH), the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 3939, to amend the Federal Aviation Act of 1958 in order to provide for an Air Travel Protection Agency.

S. 4236

At the request of the Senator from Oklahoma (Mr. HARRIS), the Senator from Michigan (Mr. HART), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Maine (Mr. MUSKIE), and the Senator from Maryland (Mr. TYDINGS), were added as cosponsors of S. 4236, which would designate certain election days as legal public holidays.

AMENDMENT OF BANK HOLDING COMPANY ACT OF 1956—AMENDMENTS

AMENDMENTS NOS. 879 AND 880

Mr. PROXMIRE submitted two amendments, intended to be proposed by him, to the bill (H.R. 6778) to amend the Bank Holding Company Act of 1956, and for other purposes, which were ordered to lie on the table and to be printed.

SOCIAL SECURITY AMENDMENTS OF 1970—AMENDMENTS

AMENDMENTS NOS. 881 AND 882

Mr. TYDINGS. Mr. President, I rise today to submit two amendments to H.R. 17550 to help provide retired Americans with the economic security and quality health care they so richly deserve.

The first amendment is designed to lift much of the excessive property tax burden from senior citizens. It would provide a Federal income tax credit of up to $215 a year in property tax relief to Americans over 65 with annual incomes of $3,500 or less and higher than normal property tax rates.

Many elderly homeowners in Maryland and across the Nation have a great deal of difficulty paying their local property taxes. Frequently they purchased their homes years ago when property taxes were lower and their incomes were higher. Now they suddenly find themselves saddled with drastically increased property tax bills which must be paid out of smaller fixed retirement incomes rapidly shrinking under the pressure of inflation.

Over the years the security they thought they had bought for their retirement has become a burden. As a result, many retired Americans are being forced to sell their homes despite the inconvenience and the sentimental attachment to old familiar residences.

This legislation meets this problem by providing elderly homeowners with a Federal income tax credit or a refund, for those who pay no Federal tax, to offset that portion of their property tax that is well in excess of what is normal. Property taxes are considered unusually high if they exceed a certain percentage of household income. These percentages are increased as household income increases.

After determining what amount of the property tax paid in an excessive portion of a senior citizen's income, a percentage of this excessive portion is relieved. For households with incomes over $1,000, there is a refund or a credit for 60 percent of the excessive part, for those with incomes under $1,000, the refund or credit is 75 percent of the excessive part. The bill limits the amount of property taxes that can be used in computing relief to $300.

To insure that only truly needy persons receive relief, applicants must list all forms of money income, including nontaxable income such as social security, veterans' disability benefits, public assistance payments, and railroad retirement benefits.

Renters would also qualify for relief under this bill. It is assumed that 25 percent of the rent payment is in effect payment for property taxes.

My second amendment would authorize Federal grants to public agencies, institutions of higher education, and private nonprofit organizations to develop curricula, establish courses, and hire teachers to train qualified nursing home administrators. The amendment would also provide Federal loan money to help those interested in becoming nursing home administrators to pay the tuition cost of these courses.

With the number of retired Americans living in nursing homes expected to double to two million by 1975, dramatic action is required to insure that we have enough qualified administrators to provide excellent care to our retired citizens. Present Federal grants extend assistance only for training courses offered to persons who already were nursing home administrators at the time the State required that all nursing home administrators be licensed. Given the expected growth in our nursing homes population and the probable commensurate growth in the number of nursing homes, there is clearly a need for training new nursing home administrators beyond those who are already in that profession.

The nursing home administrator is the key man in assuring excellent care to our retired citizens. It is he who oversees the purchase of food, makes sure that the preparation of food occurs in sanitary surroundings, and hires nurses and doctors to care for the residents of his house. We should also remember that more efficient administrators of these nursing homes will allow the taxpayer to purchase more care for the elderly for his medicare and medicaid dollar.

After a man and a woman have worked hard for 40 or 50 years to raise a family and help build this Nation, we owe them the best care we can provide if they become ill.

The PRESIDING OFFICER (Mr. CRANSTON). The amendments will be received and printed, and will be appropriately referred.

The amendments (Nos. 881 and 882) were referred to the Committee on Finance.

AGRICULTURAL ACT OF 1970—AMENDMENT

AMENDMENT NO. 883

Mr. SMITH of Illinois (for himself, Mr. WILLIAMS of Delaware, Mr. CANNON, Mr. CASE, Mr. HART, Mr. MCINTYRE, Mr. MATHIAS, Mr. PROUTY, and Mr. SCHWEIKER) submitted an amendment, intended to be proposed by them, jointly, to the bill (H.R. 18546) to establish improved programs for the benefit of producers and consumers of dairy products, wool, wheat, feed grains, cotton, and other commodities, to extend the Agricultural Trade Development and Assistance Act of 1954, as amended, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT OF THE CONSTITUTION RELATING TO DIRECT POPULAR ELECTION OF THE PRESIDENT AND VICE PRESIDENT—AMENDMENT

AMENDMENT NO. 884

Mr. EAGLETON (for himself, Mr. DOLE, and Mr. STEVENS) submitted an amendment in the nature of a substitute, intended to be proposed by them, jointly, to the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution to provide for the direct popular election of the President and Vice President of the United States, which was ordered to lie on the table and to be printed.

NOTICE OF HEARINGS ON S. 4268, TO AMEND THE EXPORT-IMPORT BANK ACT OF 1945

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on S. 4268, a bill to amend the Export-Import Bank Act of 1945, as amended, to allow for greater expansion of the export trade of the United States, to exclude bank receipts and disbursements from the budget of the U.S. Government, and for other purposes.

The hearing will be held on Thursday, September 17, 1970, and will begin at 10 a.m. in room 5302 New Senate Office Building.

ADDITIONAL STATEMENTS OF SENATORS

TRAGIC PLIGHT OF ANTIPOLLUTION EFFORTS

Mr. SAXBE. Mr. President, Art Buchwald, the well known satirist, expressed the tragic plight of our antipollution efforts the other day in his column "Capitol Punishment." The usually humorous column lacks its customary mirth. I find it a frank and honest indictment of our indifference to the death of our environment.

Mother Nature is not sick; she is dying. She needs more than opiates; she needs a cure. Mr. Buchwald suggests that we may be talking ourselves to death.

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:

MOTHER NATURE IS DYING

(By Art Buchwald)

MARTHA'S VINEYARD, MASS.—The other night I was home reading a book when I received a telephone call that Mother Nature was dying. I dressed hurriedly and rushed over to the hospital. A lot of people had gotten there before me and they were all sitting in the waiting room crying and wringing their hands. I searched out the doctors who were in another room having a heated argument as to how to save her. Each doctor seemed to have a different remedy.

One doctor said, "We have to get her some fresh air. She can't breathe. We'll have to turn off the power plant because of the smoke."

"Are you out of your mind?" another doctor said. "We turn off the power, and she'll freeze to death."

"Perhaps we could keep all cars away from the hospital," a third doctor suggested. "That would relieve her breathing."

"Out of the question," a fourth doctor barked. "How would we get back and forth to work if we prohibited cars near the hospital?"

"Gentlemen," another doctor said, "I don't believe it's the air that's hurting her as much as the water. We have to find some water that's drinkable. Strong measures must be taken immediately against polluting the hospital water."

The director said, "Where would we get the money to support the hospital if we closed down the factories because they're polluting the streams?"

"We'd also have to give up detergents," a doctor added, "and we can't have a clean hospital if you give up detergents."

"Isn't anybody going to do anything?" I shouted.

They saw me for the first time and one of the doctors said angrily, "We're sorry, this is a medical conference for professionals only. Would you kindly leave?"

I walked out, and down the hall. Suddenly I saw a closed room, which had the name "Mother Nature" hand-printed on the door. Underneath it, in large red letters, was another sign: "No Visitors."

No one was in the hall, so I opened the door. There was Mother Nature propped up on pillows. She looked old and tired and haggard. I couldn't believe anyone could have changed so much in 10 short years. But she seemed glad to see someone and smiled weakly.

"Hi, Ma," I said. "You're looking swell."

"You wouldn't kid a very sick lady, would you?" she said, gasping.

"No, I'm not kidding. You look wonderful. I've just been talking to the doctors and they say they'll have you on your feet in no time."

"Those quacks don't know anything," she said. "All they do is come in every few hours and take my temperature and give me something to relieve the pain. I think I've had it this time."

"Don't talk that way, Ma. You're going to pull through. You've survived worse things than this before."

"It's never been this bad," she said and then started having a coughing fit. "This time the grim reaper's coming to get me."

"But if you go, we'll all have to go, Ma," I cried. "You have to hold on. Please, Ma."

"I kept complaining of pain," she whispered, "but no one would pay attention to me. I said, 'If you keep on doing what you're doing I'm going to die.' But everyone said, 'Ma, you'll never die.' Why didn't they listen to me?"

"We're listening now, Ma. We're listening. We have the best doctors in the world. They're out there now, and they have a plan."

"I guess the real thing that hurts," she said, "is that my will won't be worth anything now. I left every person in the world clear water, pure air, green fields, brilliant sunsets and blue skies. It wasn't much, but it was everything I had."

Just then the door opened and a nurse came in. She went over to the bed waving a thermometer.

"Come on, Mother. It's time to take your temperature."

TREATED LIKE ANIMALS

Mr. GRIFFIN. Mr. President, for some 1,400 Americans 1 weary day follows another in drab succession and the future seems just as bleak. For the American prisoners of war being held in North Vietnam, days have blended into weeks and months and, in many cases, years of uncertainty. They have been treated less like humans than animals; they have been denied the barest essentials. Perhaps, worst of all, they are denied that mental uplift that comes only with the knowledge that their families are well and the ability to let their families know they are well. They have been barred from the most minimal communications with their families.

Ours must be the continuing task of striving to see that these men are provided with the decent treatment to which they are entitled under the Geneva Convention.

THE BEAUTY OF LAKE POWELL

Mr. MOSS. Mr. President, I have attempted many times on the floor of the Senate to describe the beauty of Lake Powell, which is created by the Glen Canyon Dam in southern Utah and northern Arizona. It has remained for Merlo J. Pusey, a Utah man who is on the editorial staff of the Washington Post, to put into type the glory and the splendor of the region. There is little I can say after reading Mr. Pusey's beautiful prose—except to urge Senators to see Lake Powell and the surrounding area for themselves.

I would make only one correction—and the fault is that of the headline writer, not of Merlo Pusey. Lake Powell spreads also into Utah—in fact about 97 percent of Lake Powell is in Utah. The beauty which Mr. Pusey specifically describes is Utah beauty.

Mr. President, I ask unanimous consent that Mr. Pusey's article, published in the Washington Post of August 31, be printed in the RECORD.

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

THE MAN-MADE BEAUTY OF ARIZONA'S LAKE POWELL

(By Merlo J. Pusey)

PAGE, ARIZ.—Lake Powell is winning increasing recognition as the gem of the Southwest. Its deep blue waters are an exhilarating contrast to the burning sun and the dry sand of this largely desert area. It may well be the most magnificent body of water that man has ever created.

There are still many who lament that this lake has filled the gorge of the Colorado River in Arizona and Utah for a distance of 185 miles and turned hundreds of once-accessible side canyons into spectacular fiords. They have a point in mourning the loss of much irreplaceable scenery that is now under water. But the water has greatly enhanced the magnificent views that remain and brought them within reach of ordinary folk whose response to the lure of nature may be no less keen than that of the few mountaineers and river-runners who used to penetrate the area before the lake was formed.

To thousands of boatmen, vacationers and connoisseurs of exotic scenery the controversy over Glen Canyon dam, which created the lake, has receded into the background. The blue paradise that extends from Wahweap, Ariz., almost to the Canyonlands National Park in Utah is the only reality of the 1970's. And it is a joy to residents of the area and visitors alike.

At Wahweap Marina you may put your own boat into the water or you may rent a boat for fishing, cruising or water skiing. If you prefer, you can take an excursion boat for a short cruise, for a one-day expedition or for a five-day cruise and hike into a wilderness that is still little known. There is not much to see at Wahweap and the southern end of the lake but the water and the

typical red sandstone mountains in the background. But as your boat moves up the canyon, one spectacular panorama succeeds another with almost bewildering profusion.

Some parts of the like widen, with long arms of water reaching into Warm Creek Bay, Padre Bay, Last Chance Bay and dozens of others. The last-named arm takes its name from the canyon used by early explorers to escape from the depths of the Colorado River gorge before venturing into dangerous rapids below. Today there is little disposition to escape. You glide over the clear water with increasing fascination as the once-forbidden Colorado yields its beauty without a struggle.

As the cruise proceeds, you are almost irresistibly lured into playing a child's game of discovery. With very little strain on the imagination, you see on the horizon beyond the cooling spray from the boat's propellers great monuments, cathedrals, statues and so forth carved out of red sandstone by wind and water over eons unknown to man.

Here on the right is a sinking battleship and in the distance a series of pyramids and perhaps even ancient mosques. At many points there are anticlines that will please the geologists, along with curious mounds, gargoyles and Mexican hats. At one point you will swear that the Arc de Triomphe is looming up in the distance.

You tire of counting pillared temples, acropolises with imaginary ruins and rocks fantastically balanced on pinnacles as only nature can do it. At one point a British-looking lion in stone appears to have strayed from Trafalgar Square. Looming up on the far horizon is a natural imitation of the Colosseum and a clock tower that is a reminder of Big Ben in London. On close inspection, too, you can scarcely fail to note a menagerie of dinosaurs, alligators, frogs and the like or the little stratified islands that might almost be mistaken for stacks of griddle cakes.

The most popular all-day trip in the lower canyon ends near one of the greatest freaks of nature on this continent—the Rainbow Natural Bridge. As the boat turns into Forbidding Canyon, the lake narrows to perhaps 200 feet, with sheer stone walls rising several hundred feet on each side. The physical world here consists of red sandstone cliffs, water and blue sky, with no vegetation in sight, except for occasional glimpses of Navajo Mountain in the distance.

The boat stops at Rainbow Marina, a floating service station and home for the attending personnel, because there is no ground between the vertical stone walls on which it could be built. All boats move at creeping speed on this part of the lake to avoid making waves that might keep residents of the marina in a perpetual state of seasickness.

From Forbidding Canyon the boat slips through the narrows—a space of possibly 60 or 70 feet between precipitous walls—into Bridge Canyon. Here you take a dusty and sometimes rocky trail up the ravine for one mile to the great natural bridge. The Indians call it "Monnezoschie"—a rainbow turned to stone. It is not a mere arch, with only air beneath, but a real bridge of stone spanning a canyon which has an active stream in wet weather. The bridge is said to be high enough to arch right over the Capitol dome, but out here in this wild country where wind and water are supreme the works of man are not a happy comparison.

Temperatures on the trail are likely to range between 100 and 110, but under the bridge itself the shade is cool and refreshing. A few years ago this unique natural wonder was rarely seen; now it is the objective of pilgrimages by about 60,000 persons a year. Their feet grind the primitive trail to dust, but as yet the "rainbow turned to stone" and its setting are unspoiled.

After a picnic lunch under the "rainbow" there is opportunity to continue up the trail for more advantageous pictures or merely different views of the great bridge. Photographers vie with one another to capture a maximum of sky or distant horizon under it. From any angle of sight it claims a high place among the wonders of the natural world.

The heat of the trail creates an almost irresistible longing to leap into the waters of Lake Powell at the conclusion of the return trip. But restraint is in order. The end of the trail is not an ideal place to swim, and as soon as you reboard the boat you will have an opportunity to change into your bathing suit and swim in a truly exotic setting.

The boat stops under an overhanging cliff in Cascade Canyon. Except for the overhang, the stone walls are perpendicular and there is no shore to swim to or even catch hold of. The water is about 200 feet deep but marvelously clear and cool. The grime and heat of the trail disappear with the first refreshing plunge.

Returning to Wahweap at the end of the day, you will be surfeited by a preponderance of fantastic sights and pleasant memories. But you will have viewed only a small fraction of the scenery available in the first 50 miles of the lake. Beyond those 50 miles lie Mystery Canyon, Hidden Passage, Hole in the Rocks, a large arm of the lake in San Juan Canyon, Halls Crossing and a vast array of inlets, fiords and watery amphitheaters. If you want to take a three-day cruise, you can visit the Cathedral in the Desert, Water Cave, Dinosaur Rock, the Cookie Jar, the historic Crossing of the Fathers and various Indian ruins.

A five-day cruise will add an additional variety of canyons along with waterfalls, pictographs and rare formations. Even if you love the out-of-doors and crave strange and beautiful sights, you are likely to be weary before you have seen a fraction of the mysteries and unique phenomena this strange land has to offer—now that it has an easily traversible waterway.

Travelers who are seeking the most fascinating and most unusual recreation areas in America can pass by many of our national parks without feeling that they have been cheated. But they cannot afford to ignore Lake Powell. It affords a rare opportunity to leave behind the world you know and venture into a setting that combines novelty with breath-catching beauty.

COUNTRY'S ECONOMIC SITUATION SERIOUS DESPITE ADMINISTRATION'S ROSE-COLORED GLASSES

Mr. PROXMIRE. Mr. President, we have had many statements from the administration lately attempting to persuade us that economic conditions are improving. Every statistical wiggle is analyzed at length in the hopes of discovering some evidence of less inflation or of more economic growth.

In an excellent article published in last Thursday's Washington Post, Hobart Rowen suggests that the administration would be well advised to stop looking at each statistical wiggle separately, to take off their rose-colored glasses, and take a good hard look at the basic economic situation today.

Let me quote Mr. Rowen:

> Everybody—not just the administration's politicos—is eager for good economic news. But the stubborn fact is that after adding in every favorable crumb of statistics for the past month, the economy is still running 4 percent below its capacity, unemployment is still 5 percent (and threatening to go higher), and the rate of inflation at the consumer level is still an unacceptable 5 percent.

Mr. Rowen notes that even Paul McCracken, Chairman of the Council of Economic Advisers, noted in a recent speech that we may be faced with "an unduly protracted period of excessive slack and unemployment."

The administration has repeatedly attempted to explain our rising unemployment as a result of a decline in defense spending and a shift in our priorities. Let me quote what Mr. Rowen has to say about this:

> Okay, that's fine; but if the priorities have been re-ordered, why haven't the men and the unoccupied facilities been shifted into nonwar activities? In other words, what the administration is using as an excuse for the downturn is really a critique of its own lack of planning.

I submit that it is time for the administration to come forward with some well-planned policies to do something effective about our rising unemployment rather than to continue to deluge us with excuses and explanations of why nothing can be done about it. I ask unanimous consent that Mr. Rowen's article entitled "Looking at the Economy Without Rose-Colored Glasses" be printed in the RECORD at the end of my remarks.

I also ask unanimous consent that the letter from Mr. Herbert Stein, a member of the Council of Economic Advisers, which appeared in the Washington Post on September 5, be printed in the RECORD.

Mr. Stein attempts to reply to Mr. Rowen's column by listing again the statistical wiggles in which the administration takes such comfort. I will not take time this morning to discuss each of Mr. Stein's nine points, but let me just refer to one or two of them. Mr. Stein points out with apparent satisfaction that real gross national product rose at an annual rate of 0.6 percent in the second quarter; 0.6 percent, when the real growth rate required just to keep unemployment from rising further is 4 percent or more. Is it a cause for satisfaction that the GNP growth rate is at least 3½ percent less than the rate of growth of our economic potential, so that the unemployment gap is increasing all the time?

Mr. Stein also appears to take satisfaction in the fact that the wholesale price index for industrial commodities rose at an annual rate of about 2 percent in August. Let me just point out that this same index was rising at exactly the same annual rate last February and March. If we use this index as our guide, it is only by comparison with the extraordinary increases in April and May that we can find any hint of improvement.

Mr. Stein's letter only reinforces Mr. Rowen's point. Perhaps that is what Mr. Stein intended to do. The basic truth is that the economy is falling farther below the full employment level all the time. At best it will be several years before our current "game plan" brings us back to full employment. I find this situation totally unsatisfactory. I call on Mr. Stein and other administration advisers to devote the same imagination and effort to proposing new economic policy that they have devoted to reading optimism into the latest economic statistics.

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

[From the Washingon Post, Sept. 3, 1970]

LOOKING AT THE ECONOMY WITHOUT ROSE-COLORED GLASSES

(By Hobart Rowen)

Leafing through the accumulation of Nixon administration speeches and statements last month on the condition of the economy, the returning vacationist finds one dominant theme: self-congratulation. The economic downturn, the Nixon men say with satisfaction, is at an end; inflation has been cooled (or, at least, the rate of inflation is subsiding); labor efficiency is increasing; and there is probably a broad upturn in the offing.

The Vice President, in a guest column in this newspaper, went so far as to say that recession talk was a myth, and that things were now happily breaking the administration's way. One newspaper, reprinting Mr. Agnew's economic commentary, headlined it: "Spiro Says Everything's Coming Up Roses." But it is clear from the government's own statistics—and even from a close reading of some of the speeches—that there is not yet very much to crow about. It seems a reasonable assumption, with an election in the offing, that the White House has been pressing hard to put a rosy hue on skimpy evidence.

For example, White House aide George Shultz (who knows better) got a great deal of mileage out of one month's statistics showing slightly reduced wholesale price pressure, and Assistant Commerce Secretary Harold Passer then read too much into the July set of so-called "leading" indicators.

Everybody—not just the administration's politicos—is eager for good economic news. But the stubborn fact is that after adding in every favorable crumb of statistics for the past month, the economy is still running 4 per cent below its capacity, unemployment is still 5 per cent (and threatening to *go* higher), and the rate of inflation at the consumer level is still an unacceptable 5 per cent.

Paul W. McCracken, Chairman of the Council of Economic Advisers, has done his best—in a reasoned, academic way—to make the administration's case that the adjustment has been mild and that there is "some evidence" that a mild expansion "may be resuming." But he has been candid enough to say, as well, that the task ahead is very great because economic performance continues to be far below potential—and the nation's basic capacity to produce continues to grow.

If the nation fails to boost demand sharply, McCracken said recently in a speech at Madison, Wisc., we may be faced with "an unduly protracted period of excessive slack and unemployment." What McCracken was trying to convey (and this was not highlighted in any of the daily press reports of his speech) was that a below-par economy is in prospect for all of 1971, with unemployment still ranging around 5 per cent or higher, not dipping toward 4 per cent until 1972.

That's a new "game plan"—if you remember the administration's first "game plan," a gentler hand was going to contract inflation with unemployment never even hitting the 5 per cent mark in 1970; the average, in fact, would be held to 4.3 per cent.

But inflation proved to be tougher to handle than Mr. Nixon and his advisers thought, and the policy screws were turned tighter than had been planned. So the "progress" that is hailed in the canned statements by the Vice President, Treasury Secretary David Kennedy and Commerce Secretary Maurice Stans is mostly wishful thinking. The patient's temperature may have been reduced from, say, 103 degrees to 102 degrees (and he hasn't passed away). But the evidence of infection persists. The economic doctors are aware that the patient is not back to normal weight. They hope there will eventually be full recovery. But it will take time—and in the process, a further physical toll.

Curiously, the administration has ascribed to the two-year decline in defense activity a share of the blame for the economic decline—especially a "displacement" of 1,000,000 jobs. This has been a recurrent theme of administration propaganda ever since the President's June economic speech.

There's no denying that war-connected spending has been cut sharply, and the Nixon administration deserves more credit for this than its political opponents want to give it. Military prime contracts, for example, are at their lowest level in nearly five years, or since just after the Johnsonian escalation of the Vietnam war.

This typifies, the administration is fond of saying, a "re-ordering of national priorities." Okay, that's fine; but if the priorities have been re-ordered, why haven't the men and the unoccupied facilities been shifted into nonwar activities? In other words, what the administration is using as an excuse for the downturn is really a critique of its own lack of planning. There could have been offsets to lowered defense outlays. "When they blame reduced Pentagon contracting for unemployment," says a Democratic critic, "it's like a guy giving up candy and then complaining that he's skinny."

What is really needed at this point is less attention to the latest statistical wiggle, and action to promote a faster rate of real growth for the economy. There appears to be little prospective impetus from stronger capital goods expansion (in fact, the latest official government survey now points the other way), or from a consumer spending binge (individuals seem disposed for the time being to save more). And the Federal Reserve is still fearful enough of inflation to resist. McCracken's behind-the-scenes pressure for more stimulus from monetary policy. The main expansionary thrust is coming from a growing federal deficit.

If things continue this way, the economy for a long time will be essentially flat—it will do no more than creep upward sluggishly, with a growing multibillion gap between actual and potential production. The most one can hope for is that the election will come and go quickly; then, perhaps, the occasional irreverent public comment or criticism that formerly punctuated the administration's outpourings may return. At the moment, the internal skeptics—who are still present—raise their doubts in private.

[From the Washington Post, Sept. 5, 1970]

CEA MEMBER ON ROWEN'S ASSESSMENT OF THE ECONOMY

Three cheers for Hobart Rowen! I had been wondering how he would manage to find gloom in the economic statistics that were reported while he was away on vacation. He has managed this in a way that demonstrates again his great ingenuity.

The problem he faced was a difficult one. During the period August 15 to August 31 the following news was reported:

1. Total real output (GNP) rose at an annual rate of 0.6 per cent in the second quarter, compared to the preliminary estimate of 0.3 per cent made in July.

2. Total corporate profits, adjusted for inventory valuation, increased a little in the second quarter.

3. The index of wholesale prices, seasonally adjusted, declined in August for the first time since April 1967.

4. The index of wholesale prices for industrial commodities rose at an annual rate of about 2 per cent in August, or a rate of about 3 per cent for the three months May to August, compared to a rise of about 4 per cent in the year ended in May 1970.

5. The Consumer Price Index rose at an annual rate of about 3½ per cent in July, about the same as in June, as compared to 6 per cent in the year ended in June.

6. Housing starts rose sharply in July for the second month in a row—by 15 per cent.

7. Business appropriations for capital expenditures in manufacturing leveled out in the second quarter after declining during the preceding year.

8. Interest rates declined fairly generally.

9. The index of stocks (Standard and Poors) rose from 75.48 in the week ended August 14 to 81.25 in the week ended August 28.

This is not the kind of information Mr. Rowen usually ignores. In fact, it was in precisely this kind of information, when it was running in the other direction, that he found the picture of "the worst of both worlds"—mounting unemployment and mounting inflation.

What would he do now, upon return from vacation, to throw out the first ball in the season of discontent? Would he deny the facts, ignore them, or unveil some bad news that was exclusively his—like corn blight in Bethesda, Maryland?

Mr. Rowen, in his homecoming article of September 3, did something subtler than any of these. He turned attention from the facts of the economy to what some administration officials have said about those facts. He operates on the following syllogism:

(a) Administration officials have a tendency to see good news when there isn't any.

(b) Administration officials saw good news in August.

(c) Therefore there wasn't any.

(I don't feel personally involved in any of this because I was also on vacation in the second half of August, and while I sometimes exclaimed, "Great News!," I only exclaimed it to my wife, who is discreet.)

This is all very interesting and even amusing. But there is a danger of misleading your readers. The truth of the matter is that there was good economic news while Mr. Rowen was on vacation, He has us all so buffaloed that we must say in the same breath that the news in August is not as good as we had hoped in January and may not be as good in September as in August. Still the good news of August is a fact. You can kick it with your foot and feel it. And not only the administration economists but the American people including Mr. Rowen are entitled to be reassured by the news.

HERBERT STEIN,
Member, Council of Economic Advisers.
WASHINGTON.

THE FAMILY ASSISTANCE PLAN

Mr. WILLIAMS of Delaware. Mr. President, the Washington Post of Friday, September 4, contains an interesting article entitled "Welfarism and Society," relating to the family assistance plan, and written by Kevin P. Phillips.

Mr. Phillips points out that the plan does not emphasize work incentive, as contended by the proponents.

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:

WELFARISM AND SOCIETY

It is bad enough, as the White House's new welfare proposal moves nearer enactment, to contemplate the federal projection that 29 million persons will be eligible for the relief rolls in 1975 and that increased benefits will cost the taxpayers an additional $10 billion a year.

Yet that is only the beginning. The "megadole," as conservatives are beginning to term it, has chilling implications for the fabric of society. Information compiled by the U.S. Labor Department, the General Accounting Office, the Committee on Economic Develop-

ment, and the City of New York illustrates the destructive impact of 1965–1970 federal welfarism on U.S. society and suggests the inaccuracy of the administration's contention that its plan emphasizes work incentive rather than a dole.

On Aug. 18, the General Accounting Office told the Senate Finance Committee that the administration's early 1970 study, which argued that welfare did not erode work incentive, was incomplete and misleading because it used only poor people with a background of employment and ignored the attrition of certain sampled families.

Data published by the U.S. Labor Department on public employee work stoppages during the last decade show a massive upsurge dating from 1965 when the impact of anti-poverty programs and Great Society welfarism began to make itself felt. As welfare recipients became "clients", as payments became "rights" rather than benefits; as welfare became fashionable and humdrum occupations something to scoff at, the motivational dynamics of working-class America began to break down.

In 1965, after years of stability, every index of public employee work discontent—man-days idle, workers involved, stoppages—took off like a rocket. By 1969, work losses were five to ten times those of 1964.

Nowhere has this demoralization of the working class been more poignant than in New York City, welfare capital of the world, where the half million persons on relief in 1965 when John V. Lindsay was elected mayor have become 1.1 million in June, 1970—15 per cent of the total population of the city. The lower-middle-class bedroom boroughs beyond Manhattan have become seething centers of hostility to the Manhattan welfare client-rich liberal axis.

In the face of the huge rise in welfare in New York City and elsewhere, the Committee for Economic Development—in an August statement, "Training and Jobs for the Urban Poor"—observes that there are hundreds of thousands of service jobs (as waiters, gas station attendants, household help) going begging, partly because rising welfare payments pose too attractive an alternative. And, it might be added, because the welfarist psychology decries such employment as insufficiently fulfilling.

New York's Mayor Lindsay recently labeled as "a return to the Dark Ages" the suggestion that able-bodied welfare recipients be put to work cleaning up city streets.

Because revulsion against this sort of welfarism helped put Richard Nixon in the White House, his support of a vastly inflated welfare program is puzzling. According to conservative Nixonites, the President, preoccupied with his productive efforts to achieve peace in the Middle East and wind down the Vietnamese war, has been intermittently misled on the welfare scheme (especially the work incentive features that formed the basis of his initial approval) by elements of the White House staff. The same advisers who blueprinted the program have wrongly convinced the President that his prestige is at stake so as to oblige Mr. Nixon to pull their chestnuts out of the fire at his own political expense.

Thus, many conservatives who believe that the welfare program is a sociological, economic, and political threat to the nation and the administration are hoping that the Senate Finance Committee will see that the prestige at stake is not the President's but that of the left wing of his White House staff, who will pay the piper if Congress rejects their handiwork.

VETERANS' ADMINISTRATION HOSPITALS

Mr. CRANSTON. Mr. President, on September 1, 1970, the senior Senator from Iowa (Mr. MILLER) placed in the RECORD an article published in the September issue of the American Legion magazine entitled "The Truth About the VA Hospitals—Are VA Hospitals Neglectful of Their Patients as Charged in Life Magazine?" It deals primarily with another article entitled "Our Forgotten Wounded," published in Life magazine for May 22.

I think it is most unfortunate that the VA and others have devoted so much time and attention to taking issue with the Life magazine article. That time and attention, it seems to me, might be better spent in attempting to obtain vitally needed appropriations to improve the quality of care for our disabled men in VA hospitals.

In my public statements on the VA hospital situation, I have tried to focus on conditions in those hospitals, rather than on the Life article. For example, in speeches I delivered this summer before the national conventions of the American Veterans Committee, the Disabled American Veterans, the Veterans of Foreign Wars, and the Jewish War Veterans, I did not stress the Life article. I did not even mention it when I spoke on the Senate floor on July 5 to support the Senate's increase of $125 million over the administration's budget request for VA medical care. Nor did I mention it when I spoke again on August 4 to support the $105 million increase agreed to in conference.

However, given the tremendous amount of time and attention which the Veterans' Administration, and then the American Legion magazine, have devoted to rebutting the Life article, I did state my views about it, in addressing the national convention of the American Legion on August 29. This is what I said:

In that regard, you will notice that I made only passing mention earlier in my statement to the now famous Life magazine article. That is, first, because I think the article speaks for itself. And, second, I think it is beside the point and peripheral to the real issue facing us to become involved in arguments over whether certain photographs were staged or not.

Rather, the question is what *are* conditions now in VA hospitals, and what can we do about them now. As I have indicated, our investigation has demonstrated beyond all doubt that in many veterans' hospitals conditions are deplorable. That is really the point of the *Life* article, and I think far too much time and attention has been devoted to nitpicking at the *Life* article by those who really should know better and who share major responsibility for seeing that we are providing the best quality care to our wounded veterans.

I do not wish what I have said about the *Life* article to indicate that I have any quarrel with its accuracy. I have talked personally to two individuals who were present when the pictures were taken and have received affidavits from fifteen paraplegics now at the Bronx Hospital, or who were former patients there, attesting to the accuracy of the conditions portrayed in the *Life* piece. These affidavits, by the way, were made a part of our public hearing record.

So, I have no reason to question the integrity of *Life's* photographers or editors. But, frankly, I am rather weary at the continuing attempt to focus on that article rather than on the actual conditions in our veterans hospitals. That is what I care about. That is what I am deeply worried about. And that is what I know you are equally concerned about.

I also repeated before the Legion convention what I had said at the VFW convention on August 20—in responding to a question—that my views on the Life article were strongly influenced by testimony to the Senate Independent Offices Appropriations Subcommittee on May 27 by Donald Broderick, executive director of the Eastern Paralyzed Veterans' Association who was present when the Life photographs were taken. This is what Mr. Broderick told the subcommittee:

We were very happy when we saw the article and there was this reaction when we saw the article throughout the organization.

The article is true. This is a picture of what goes on there day-to-day.

Now, the Senator made a statement before which I think was erroneous. He said there haven't been survivors, you know, though even after World War II. This is when it did begin was after World War II. And I think that maybe, instead of all the name-calling and everything else that goes on, maybe one of the things that is at the bottom of that is that the attitude then since nobody lived before was that let's try and keep these men alive. But we have come a long way since then. Yet the treatment is the same. We have these young fellows now who are coming in and they are vibrant; they are vital. They have interests. They have better educations usually than before. And they are subject to conditions that are so degrading that not to stand up for it, I couldn't face my family or my friends much less go back to these people.

It exists. I cannot really even understand why the VA could categorically deny these pictures or just even bother going into picture-by-picture denials because these pictures happen every day.

I guess part of it is the staff is overworked; maybe they are used to not seeing even what goes on around them. The staff has felt bad about these pictures and now there is some polarization there. But there was no attempt to degrade the staff. These people are overworked and, we feel, underpaid because there are all kinds of problems. We don't deny there are special problems. We want people to know it. This may be something else, that it is hidden shame. For awhile some people thought a guy in a wheelchair is a paraplegic.

Well, being in a wheelchair, sir, is the lesser part of it. I am a quadraparaplegic. Some of the guys in the picture are totally paralyzed, meaning from—what you do when you become spinal cord injured is you lose the use of your body including even the feel of sensation from the level of the injury down. There is no way you can get a worse injury. And there is no way that anyone can tell me you don't need special care. And even the fact that our staffing ratios are less than anything average it just doesn't make sense. It is special care for special needs.

The young fellow who was pictured in here, who was being maligned and assailed, he has made a lot of remarks from his heart, but nobody can question this man's patriotism. He volunteered to serve and he was on a voluntary mission when he got hurt. He is totally paralyzed. He can't move anything. He relies on people for every function.

This article is the first thing I have ever seen on this. We have gone to the VA for years and years with words about what is wrong. You can't be—like if you were blind, well, somebody could put a blindfold on say that is what it is like to be blind. You could stumble over something. You could say it is terrible. You couldn't see colors. You couldn't visualize a woman, something along that line. But no one can just sit in a wheelchair. You don't know what it is like to experience body dysfunction constantly, skin pressure sores.

All these things exist. And there are techniques that the VA has not availed itself of. Like one thing that comes to mind every time I see this one picture, if he even wants to move over to the window he has to get somebody to push him. Now, there exists, obviously in this era of scientific everything, simple procedures like an electric wheelchair which can be operated by somebody like him by using his head, getting a console and he can touch it with his breath or tongue or things like that.

Don't quote me on the tongue. Maybe the VA has said that has been done.

Now, there are others quite similar who are service-connected veterans, wartime veterans, any kind, in this situation who are home and probably out of the hospital having someone care for them who could avail themselves of such devices, yet we never see the equipment.

So I look again at the pictures and I have had calls from members who have been out of the hospital for years and who are business people now. They have made there way in life. They live now. They are productive, not bitter people. They are productive and they have families. They have pride and they don't like people seeing this knowing they went through similar things. But yet all calls I get are favorable and every one of these people has called to say that he would testify about the conditions.

And one remark that sticks so much in my mind is a remark by Dr. Maurice McGee and he's a professor of English at Montclair State College. He is the veteran of World War II and Korea. And he called up and he said the Life Magazine article is false, "because they didn't get the smell."

It is just incredible. It does exist. And the name calling is no good. It doesn't help anyone. And the polarization of the staff is going to drive away the dedicated people who are responsible for maintaining what we have. And we feel that spinal cord injury personnel should receive more money, a special appropriation because of the work they do. We don't malign them. We have had liaison with these people for a number of years, liaison with the VA personnel. I have met with them regularly and its been good. They have been honest and I hope to maintain that. But to deny funds when there is improvement—because we have been promised improvement—and I don't speak for the whole system. I can't. I would be foolish to. I speak for my members at the Bronx who have had it up to here. And as I speak for them, I know that they just need certain things done for them. It just has to be done, that is all.

On May 21, the junior Senator from Kansas (Mr. DOLE) placed in the RECORD letters from the Administrator of Veterans' Affairs and the Director of the Bronx VA hospital challenging the Life article. Since critics persist in attacking the magazine, I think it is only fair that Life now be afforded equal time and space to present its case. This is done in letters which Thomas Griffith, editor of Life magazine, sent on May 27 to the Administrator of Veterans' Affairs, Donald E. Johnson, and the director of the Bronx VA hospital, A. M. Kleinman, M.D.

I refrained from offering these letters previously because I did not believe that it served any useful purpose to extend further the debate on this question. But I now ask unanimous consent that these letters be printed at this point in the RECORD in order to give Life magazine an opportunity to defend itself against some very harsh charges.

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

LIFE,
New York, May 27, 1970.

DONALD E. JOHNSON,
Administrator of Veterans' Affairs, Veterans' Administration, Washington, D.C.

DEAR MR. JOHNSON: Your telegram regarding our article "Assignment to Neglect" which appeared in the May 22nd issue of Life was waiting for me when I returned from Europe this morning.

The language you use—of photographs "obviously contrived" and "staged," and a narrative "totally distorted"—is as erroneous as it is intemperate.

Life magazine has built a reputation for accurate reporting over more than three decades, and has no desire to sensationalize a subject of such sensitivity and importance. Our article on conditions in Veterans Administration hospitals was thoroughly researched and documented. If you take issue with our facts I will be glad to discuss them with you.

I have received, as you know, a much longer and more temperate letter regarding the same article from Dr. A. M. Kleinman, director of the Veterans Administration Hospital in the Bronx where the pictures illustrating this article were taken.

We have carefully checked every question raised by Dr. Kleinman and a copy of my reply to him is enclosed.

Since copies of your telegram and Dr. Kleinman's letter were released by you to the news media before I saw them I hope you will not mind if I make my response similarly available.

Sincerely,

THOMAS GRIFFITH,
Editor.

LIFE,
New York, May 27, 1970.

A. M. KLEINMAN, M.D.,
Director, Veterans' Administration Hospital, Bronx, N.Y.

DEAR DR. KLEINMAN: Your letter regarding our article "Assignment to Neglect" which appeared in the May 22nd issue of Life arrived last Friday while I was out of the country. I saw it when I returned this morning, and have reviewed the questions you raised with all concerned.

We will be glad to print excerpts from your letter in the June 12th issue of Life, together with examples of other letters we have received about this article.

I think I should tell you in advance of that, however, that your charge that our pictures were staged is quite inaccurate.

Co Rentmeester, the photographer who took the pictures, was accompanied by Charles Childs, the reporter who worked on the story, and by Donald Broderick, executive director of the Eastern Paralyzed Veterans Association. All of them deny point by point the allegations in your letter that pictures were posed. They have, in addition, statements from patients affirming the conditions under which the pictures were taken.

The charges made against us we do not regard lightly. Life has built a reputation for accurate photographic reporting during more than three decades, and we have no intention of endangering that reputation for a momentary sensation. May I take up some of your accusations one by one:

You state in your letter that no patient is left under the shower after the completion of his bath. The fact is that Rentmeester, Childs and Broderick found the patient unattended in the shower and took the picture shown in Life. The patient will corroborate the fact. In addition, five other patients on the same ward have given Life written statements complaining of undue waiting during showering. If attendants have told you otherwise, I think you should investigate further.

At another point in your letter you allege that the photographer asked that curtains screening a patient's cubicle be drawn back out of sight. This also is not true. The curtains were open when Rentmeester, Childs and Broderick arrived and the picture accurately depicts the conditions they found. The patients also will corroborate that. If attendants have told you otherwise I again suggest that you investigate further.

You also charge that it was the photographer's idea to pose a paraplegic veteran throwing a sheet over a totally crippled patient nearby. This, again, is not true. When Rentmeester, Childs and Broderick arrived on the scene they found three paraplegics in wheel chairs struggling to transfer a quadriplegic patient from his stretcher to his bed. One of them said to the photographer: "I want you to photograph this. You see, we have to help ourselves." Then he tossed the covering over his friend in the bed. No part of this was the photographer's idea.

You write, about another picture, that a curtain was pushed back and a trash can pushed toward the stretcher of a patient "for misleading photographic effect." Again this is not true. In fact, the photographer visited the same room on different days and on each occasion found the trash cans unscreened and in the same relationship to patients. The patient who, according to your letter, was "disturbed at the invasion of his privacy" has, in fact, given us a written statement saying: "To my knowledge and my personal observation the conditions shown in the photo were true. It is also true that at times the condition of the room pictured is even more disgraceful."

You also object to a picture showing a sleeping patient and, on the floor beside him, a mouse caught in a trap. You write: "We do not use traps in our campaign against mice which admittedly we do have." We clearly stated in the article that it was the patients, not the hospital personnel, who set the traps. To substantiate that, we have the written statement of one patient reporting that he had trapped nine rodents, and a written statement from another patient that he had trapped 14 mice in a single room.

There are a number of other points in your letter about which I feel you have been misinformed. But since they do not directly impugn the integrity of Life I will not prolong this letter to debate them. You can be sure that we have given careful consideration to all you have written.

Life has admiration and sympathy for the thousands of capable and dedicated physicians, administrators and other personnel in the Veterans Administration medical system. VA staffers in many cases have performed better than could be expected, given their budget limitations.

Life believes, however, that these staffs should not have to work under the severe shortages and handicaps even you describe. Certainly the wounded should not have to endure substandard conditions. It was Life's intention and hope that its report would help those who are trying to correct those conditions.

As you know, a copy of your letter to me was placed in the Congressional Record last week by Senator Robert J. Dole, and copies have been distributed to news media by Donald E. Johnson, Administrator of Veterans Affairs. Therefore I am sending copies of this reply to Senator Dole and Mr. Johnson, and to news media.

If you have any further question on any of the points you have raised I will be happy to discuss them with you in person.

Sincerely,

THOMAS GRIFFITH,
Editor.

Mr. CRANSTON. Mr. President, the situation confronting Congress now with respect to the VA fiscal year 1971 appropriations is most unfortunate. The

VA appropriation, and others like the independent offices and housing and urban development appropriation bills, must be passed by the Congress all over again as a result of the President's August 11 veto.

I discussed this situation with respect to the VA medical care appropriation at considerable length in my August 29 address to the American Legion. I ask unanimous consent that the text of that statement be printed in the RECORD.

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

ADDRESS TO JOINT MEETING OF LEGISLATIVE, REHABILITATION, AND ECONOMIC COMMISSIONS OF THE AMERICAN LEGION NATIONAL CONVENTION, AUGUST 29, 1970

It is a great pleasure to be back with you key policymakers again. I enjoyed my appearance before your Washington meeting in March, and I welcome the Economic Commission members this morning. I regret that Senate business will not permit me to remain at the convention this week.

At the outset, I want to express my deep appreciation and admiration for the special cooperation our Veterans Affairs Subcommittee has received from your national staff. Herald Stringer, assisted by Chuck Mattingly and Terry Wertz, as well as Ed Golembieski and Austin Kerby have been of great support to us.

I want to touch on a few legislative matters first and then turn to the pressing hospital situation. I must note that our ability to proceed with legislation has been severely impeded by the need to continue to devote our major attention to the pending VA hospital appropriation.

Last spring, I made a rather lengthy report to you about the work and long-range plans of the Veterans Affairs Subcommittee since I became its chairman. Today I will try to bring you up to date on our activities and our more immediate plans in this final session of the 91st Congress.

We are currently working closely with the Veterans Administration and the House Veterans Affairs Committee staff to perfect five bills which we will consider in subcommittee executive session on September 10. I introduced four of these bills: S. 3656, which would (1) provide special financial assistance to veterans wanting to use their GI home loan entitlements, (2) extend all existing entitlements and restore those which have been lost, and (3) create a mobile homes loan program within the GI bill;

S. 3657, which would provide for advance payment of educational allowances and establish a special work-study program for trainees;

S. 3683, an administration bill which deals with some of the same subjects; and

S. 3907, which would move up the effective date for increasing GI bill allowances when trainees acquire dependents. We also have under active consideration a House-passed bill, H.R. 370, to increase and expand the special automobile allowance for seriously disabled veterans.

There is another bill pending in the Senate, H.R. 693, which has caused considerable controversy between the House and Senate over the part of the bill dealing with the so-called "pauper's oath" that a veteran must take before he can be admitted to a VA hospital for a non-service-connected condition. I have been working with members of both parties in the Senate and House committees to arrive at an acceptable resolution of our differences, and I firmly believe we will agree to liberalize the House-passed bill so that any veteran who is 65 years or older will be eligible for admission to a VA hospital or domiciliary for non-service-connected conditions, regardless of his financial means. This would eliminate the so-called pauper's oath for such veterans. The VA has already accepted our committee recommendation and such veterans no longer have to complete the detailed income questionnaire.

Virtually every veteran 65 or older is entitled to federal Medicare benefits. Yet, based on VA hospital per diem costs, it is more economical for the United States Government to permit him the option of VA hospitalization if a bed is available, rather than reimburse a civilian hospital at a substantially higher per diem rate under Medicare.

There is one legislative matter of particular concern to the Economic Commission that I want to discuss this morning. The Labor and Public Welfare Committee has just reported to the Senate S. 3867, the proposed "Training and Employment Opportunities Act of 1970." We all recognize what an enormous problem our rising unemployment rate is for the whole country, especially for returning Vietnam veterans. There just are not now enough decent, productive jobs at living wages available today or enough good training opportunities to fill jobs that are available. This bill attempts, effectively I believe, to deal with this situation.

During subcommittee and full committee consideration of the bill, I was successful in securing adoption of a number of amendments designed to ensure appropriate provision for veterans in employment, manpower and training programs.

The basic veterans' amendment that was adopted rewrote and updated present provisions of the veterans' law establishing in the Department of Labor the Veterans' Employment Service. The new provision attempts to strengthen Veterans' Employment Service, enlarge its staff and protect its appropriation from diversion to other Labor Department purposes. It also includes as a positive responsibility of the Labor Department job development activities for veterans and providing counseling for and referrals to appropriate training and manpower programs, as well as directly to job openings.

The amended provision establishes new administrative controls and data gathering and reporting requirements to attempt to ensure that all veterans seeking employment or training assistance will receive it promptly and adequately. And it calls for close coordination and cooperation with the Veterans' Administration especially in assisting the VA in its promising new job fair program and in its outreach services program, authorized in the new public law enacted last March. Hopefully, this will lead to the assignment of more state public employment counsellors to work at Veterans' Assistance Centers and to more such counsellors devoting their full time to meeting the needs of a growing veteran population generally.

I believe this new veterans' employment provision offers very tangible progress toward providing veterans with prompt, effective job and job training placement and assistance. I want to acknowledge the cooperation of Austin Kerby on this amendment and thank him for his help.

Now, I will turn to the most immediate and urgent business before all of us—the task of getting vitally necessary money for our crippled and disabled men who are in our VA hospitals.

On November 11, 1969—Veterans Day—I announced to the Senate the initiation of an investigation of medical care for Vietnam veterans in VA hospitals. My subcommittee proceeded to receive testimony from 45 witnesses, including eminent medical school deans and medical experts, seriously disabled veterans, and rehabilitation experts of the Legion and other veterans' groups. The subcommittee staff and I visited a number of VA hospitals—mostly unannounced—to talk with patients, administrators, physicians, nurses and other personnel, and look over the general hospital situation.

Our subcommittee investigation, focusing on immediate care problems for wounded Vietnam veterans, illustrated graphically that war is not merely a killer: It is a cruel and terrible crippler.

Everybody knows that men get wounded in war. We get the statistics of the wounded right along with those of the dead. But somehow, we don't seem to feel for the wounded the way we feel for the dead. We count the cost of battles in dead, not maimed. We count bodies not agonies.

For many, wounded men evoke a vision of a brief period of pain, a stay in the hospital, rest and recreation, and the purple heart. Then, many people seem to presume everything goes back to normal for these men, and they push them out of their minds. But the men that many Americans have forgotten have become uppermost in my mind since I learned what was happening to those whom the nation treated as heroes only a short while ago.

I found some eye-opening and heart-rending facts. I found that the Vietnam war is the most crippling and seriously disabling war in our history. So far 286,585 men have been wounded in Southeast Asia.

I found that the wounds suffered by our men are incredibly severe because of the kind of war we are fighting—a war of high-powered rifles on the one hand, and, on the other hand, a war of mines and primitive booby traps that destroy a man without killing him.

I found that ten percent of our surviving wounded are so badly shot-up or burned that they would have died in any other war. But, miraculously, we are keeping these men alive. It is a great tribute to our country that we are saving these men—a tribute to the intensity and compassion of our rescue operations.

Probably no other country spends as much manpower and money in rescuing a downed pilot or evacuating a wounded infantryman. But, science and man have their limitations. And I found that our veterans hospitals are being filled with more and more paraplegics and quadriplegics, more and more amputees and patients with multiple injuries.

And what is perhaps even worse, I found that these men—along with our hospitalized veterans of previous wars—are not getting the top quality medical care which they so richly deserve and have so painfully earned. I found hospitals severely understaffed, with insufficient numbers of general physicians and specialists, too few nurses, too few technicians. I found overcrowding in some hospitals and, in others, I found empty wings and idle equipment because there weren't enough trained people to put them to use.

I found dedicated and conscientious staffs—overworked because of personnel shortages, and frustrated by inadequate and obsolete facilities. I found many of the patients wasting precious months and years of their lives because they are not receiving the care and compassion they must have for rapid recovery and rehabilitation. I found others suffering deeply from debilitating neglect.

As a result of all this, when on May 27 I went before the Appropriation Subcommittee, headed by Senator John Pastore of Rhode Island, I asked for $174 million more than had been appropriated by the House for the hospital and medical program.

Our investigation showed that this sum was necessary to provide high-quality hospital and medical care to our disabled veterans—to make up for the major deficiencies that plague very many VA hospitals. For the financial squeeze over the last five years has produced deterioration and a dangerously enlarging crisis in our VA medical system. This crisis did not occur overnight. It's the result of a steady erosion.

A Democratic administration and a Republican administration share responsibility for the sad state of affairs that now confronts us—a crisis caused by taking it for granted

that things could be done without adequate funds. The Executive Branch in two administrations has turned down the budget requests of the VA's medical staff.

Year after year, the purchase of essential equipment and supplies has been deferred, along with renovation of facilities, construction of new facilities, and acquisition of staff. This process of slow deterioration, masterminded by the Bureau of the Budget, dramatically surfaced when increased numbers of Vietnam veterans began flowing into our VA hospitals.

The number one problem facing VA hospitals is a shortage of staff. VA hospitals have an overall staff-to-patient ratio of only 1.5 to 1 compared to staffing ratios of about 2.7 to 1 in community hospitals.

To help overcome this unfair, intolerable situation, I recommended to the Pastore subcommittee adding about $51 million to fund an additional 5,000 more staff positions in VA hospitals. This would increase staff ratios to about 1.7 to 1, a substantial improvement which should help every veteran in a VA hospital.

I also asked for $46 million to eliminate the serious backlog in equipment purchase, maintenance and repair.

The plight of those who have spinal cord injuries is especially deplorable. The ratio in the VA spinal cord injury units, as of April 1970, was approximately 1.02 staff for each spinal cord injury bed. In stark comparison, the ratio at New York's Institute of Rehabilitation Medicine, headed by the world famous Dr. Howard Rusk, who is a consultant to the VA, is 2.17 to 1—more than twice as high. Many VA spinal cord injury centers are well equipped, but I have found only a few patients actively engaged in therapy at one time. Others wait endlessly for their turn in an *unhappy, helpless, hopeless prone* line. And still others have lost the incentive to come and wait, and wait.

I have proposed that by the end of fiscal year 1971 we provide the Veterans Administration with $10 million to *double* the spinal cord injury staffing ratio.

Under the impetus of our investigation and embarrassed by the recent *Life* magazine article, the VA decided to reallocate funds and make a 25 percent increase in spinal cord injury staffing ratios for fiscal 1971. They had not planned to do this. I am glad we helped change their minds. I also recommended adding almost $6 million to eliminate an outrageous backlog in dental examinations and treatment.

Although I have focused my recommendations primarily on the needs of disabled Vietnam veterans, I have tried to stress that inadequate conditions in our hospitals afflict *all* veterans of *all* wars. You and I know, too, that there is growing, exploding need now for long-term care facilities for aging and infirm veterans of World War I and World War II. Because of this, I proposed an additional $6 million to convert 1,000 more present hospital beds to nursing care use.

Despite strong Veterans Administration opposition to every one of my recommendations, the Appropriations Committee accepted the bulk of them. It voted to increase the House-passed bill by $100 million.

During the subsequent Senate debate, 35 Senators took to the floor to state their strong support for this incresae, and the Senate passed it—*unanimously*.

Altogether, the Senate passed $175 million more than was requested in the President's initial budget—the $100 million added by the Senate—$25 million won on the House floor by your good friend and mine, Chairman Teague of the House Veterans Affairs Committee—and the $50 million belatedly added by the administration to its original budget after our Congressional investigations aroused the nation and shook the White House.

Congressman Teague energentically supported the Senate increase, and has been an indispensable ally from the start. He deserves the praise and respect of all Americans for his outstanding work for disabled veterans. So do Ralph Yarborough, Chairman of the full Labor and Public Welfare Committee and ranking member of the Veterans Affairs Subcommittee; Richard Schweiker, its ranking minority member, Senator Pastore; and Senator Gordon Aliott, the ranking minority member of the Appropriations Subcommittee.

The support we received in the Senate was characteristic of the bipartisan effort I have tried to foster for all veterans matters. So far—and I will do all I can to keep it this way—all actions of our subcommittee, our full committee, and the Senate on VA education and training and medical legislation and on appropriations for these programs has been *unanimous*.

The amount finally passed by both houses totalled $105 million above the administration budget request. Chairman Teague and I accepted the conference recommendation to eliminate $20 million which the Senate earmarked for additional construction, because it was our understanding that most of the priority items, including design of a replacement hospital for both the Bronx Hospital in New York and the Wadsworth Hospital in Los Angeles, would very likely be carried out by the VA with existing construction money.

We thus felt that the crucial money was in the medical care category. We were particularly pleased that the full $105 million for medical care was accepted by the conference committee.

That brings us up to date except for one small item. Last week, the President suddenly vetoed the VA appropriation, which was in the Independent Offices and HUD appropriation bill. This wholly unexpected, totally unjustified action has created a whole new crisis. Last Thursday, the House of Representatives failed to muster the necessary two-thirds vote to override the veto. Now, even if we are successful in restoring the vetoed $105 million—an assumption we cannot now make with any certainty—the VA will be delayed at least a month and a half, and perhaps far longer, before it can start hiring the new medical staff and before it can start buying and repairing the medical equipment which that increase would authorize. The tragic result of the veto is, therefore, the same kind of slow-down and deferral process which is largely responsible for bringing VA hospitals to the crisis that now confronts them.

Let me give you a sad, shocking statistic: If the President had signed that bill and turned loose the money, the VA today would have $622,000 a day more for our wounded veterans! This money is irreparably lost—yesterday, today, and tomorrow—because the VA is now without any fiscal year 1971 appropriation bill at all. So all it can do is spend money only at the totally inadequate, intolerably low level, wholly out-of-date level of the fiscal year that ended last June 30. Almost a quarter of a billion dollars less is available now than would have been available if the President had signed that bill!

If the Congress sticks to its guns, we will eventually be able to get that money back—but we'll get it back too late. We will never get back the lost medical care and the lost rehabilitation our maimed veterans desperately need now—*at this very moment!* And with every week that goes by until the VA finally receives its appropriatalon, it will be more and more difficult to recruit all the additional staff it so desperately needs. We must do all we can to break this log jam!

"Tiger" Teague and I have agreed on a united effort in our respective houses to restore the full amount of the VA medical increase that was in the bill rejected by the President.

So that is the situation that now confronts us. It is not a very attractive one. I feel that it is absolutely urgent that all of us devote our maximum efforts to securing the appropriation with the full increase intact and then seeing to it that it is expended.

In that regard, you will notice that I made only passing mention earlier in my statement to the now famous *Life* magazine article. That is, first, because I think the article speaks for itself. And, second, I think it is beside the point and peripheral to the real issue facing us to become involved in arguments over whether certain photographs were staged or not.

Rather, the question is what *are* conditions now in VA hospitals, and what can we do about them now. As I have indicated, our investigation has demonstrated beyond all doubt that in many veterans' hospitals conditions are deplorable. That is really the point of the *Life* article, and I think far too much time and attention has been devoted to nitpicking at the *Life* article by those who really should know better and who share major responsibility for seeing that we are providing the best quality care to our wounded veterans.

I do not wish what I have said about the *Life* article to indicate that I have any quarrel with its accuracy. I have talked personally to two individuals who were present when the pictures were taken and have received affidavits from fifteen paraplegics now at the Bronx Hospital, or who were former patients there, attesting to the accuracy of the conditions portrayed in the *Life* piece. These affidavits, by the way, were made a part of our public hearing record.

So, I have no reason to question the integrity of *Life's* photographers or editors. But, frankly, I am rather weary at the continuing attempt to focus on that article rather than on the actual conditions in our veterans hospitals. That is what I care about. That is what I am deeply worried about. And that is what I know you are equally concerned about.

That is why I count on you to help us make some very telling points to the Congress and to your many friends, Legion associates and neighbors. You as veterans' leaders and spokesmen bear a particularly heavy responsibility to look at the situation objectively and tell it how it really is.

We must explain that first the administration of Lyndon Johnson and then the administration of Richard Nixon have held down funds for the Veterans Administration, looking upon its program as if it were really no different from any other domestic program

Both administrations, one Democratic, one Republican, have been plagued with the problem of how to fight a war, maintain a balanced budget, and prevent inflation. Neither administration has succeeded in solving this problem, mostly because they have been attempting the impossible—every war in American history has brought inflation, inflation that hasn't ended until the war has ended.

Many people in our country have been unfairly hurt by this misguided brand of economics—but those who have been hurt the most have been our disabled veterans. They have already made one heavy sacrifice in this war that is the very cause of the inflation confronting us.

Then, when they come home, they are asked to make still another sacrifice—by giving up first-quality medical care. I believe preserving the lives and well-being of these men is far more important than preserving the value of somebody else's dollars. I believe the war against inflation must be fought on other fronts—not in the wards and clinics of our veterans hospitals.

I believe that President Nixon underestimates the American people. I believe that the American people know that high-quality medical care for our wounded veterans is a basic, inescapable cost of war that must be paid.

We demand the best possible weapons for our fighting men. We must also demand the best possible medical care for these men when they are hurt. I appeal to you, here and now, to help me bring these facts home to our fellow citizens.

Even then—if we succeed in getting the full $105 million increase finally appropriated—our job will not be ended. Administration spokesmen time after time have contended that they do not need any more money for more staff and better equipment. They say all is well in our VA hospitals.

That just is not so. You know it. I know it. And the very VA officials who are making blanket denials of the need know it most of all.

The Administration insists that the VA medical program does not need and cannot use more than the $1,752,000,000 in the proposed budget. You might think it logical to assume that the VA's medical officials agree. But that is just not so.

In early 1969, when they were making long-range forecasts of needs, the heads of the VA's department of medicine and surgery said they would need $78 million more than that amount for fiscal 1971.

This discrepancy between what the Budget Bureau said the VA medical program needs and what VA doctors say it needs grew even greater as time passed.

As the fiscal year approached, as costs continued to rise and it became possible to make an even more realistic appraisal of medical needs, the House Veterans Affairs Committee made a new analysis. The directors of the VA's 166 hospitals were asked how much money they needed for quality medical care for the fiscal year beginning last July 1, 1970. Their answer: they said they needed not $78 million more than the proposed budget, they said they needed $180 million more. Indeed, that is why I had initially asked for $174 million more.

The situation we are now in is that Congress has voted a $105 million increase in the medical budget, the VA's own hospital directors say they really need a $180 million increase, and the Budget Bureau requires Donald Johnson to say our VA hospitals don't need any increase at all!

Let me make clear that I do not intend my references to the Administrator of the VA to be in any way personally critical of him. I know that you and I and Donald Johnson and his staff all want the same thing—the finest possible medical care for our disabled veterans. I understand what public appointed officials are required to say and do. And I know full well the telltale signs of the Budget Bureau handcuffs, the Budget Bureau blindfold, the Budget Bureau gag, and the Budget Bureau straitjacket.

This past Wednesday was Women's Liberation Day. I propose a Donald E. Johnson Liberation Day! I call upon you to help Don Johnson liberate himself and the VA from these Budget Bureau restraints, so crippling and so unjust.

I call upon you to help Mr. Johnson communicate to the President that he should listen to the VA's own medical experts. I call upon you to help Mr. Johnson communicate to the President that he should listen to wounded and sick veterans.

I call upon you to help Mr. Johnson communicate to the President that he should listen to disabled veterans' families. I call upon you to help Mr. Johnson tell it how it really is to the President and tell him that he must stop listening to the penny pinchers in the Budget Bureau.

As recent activities make painfully clear, we cannot take the additional money for granted, if it is appropriated, any more than we could last year when the Bureau of the Budget held up for almost two months the $34 million by which the Congress increased the 1970 budget request.

The fact is that it wasn't until we had held four days of hearings in our investigation, and Chairman Teague had circulated his questionnaire to all VA hospital directors, that the Bureau of the Budget finally got the message. Only then did it release the funds.

Let there be no mistake about it: This is the hour of crisis for VA hospitals. If we fail now, with all of the momentum that has been built up by our Congressional investigations, by the veterans' organizations, and by the tremendous publicity from the news media, if we fail now, our hospitals will be doomed to continuing deterioration, and our veterans will be condemned to indifference and neglect. At that point, the VA's once proud motto, "Medical Care Second to None," would degenerate into "Medical Care, *Equal* to None."

You and I must not and will not allow this to happen!

I realize these are very strong words. But in my view, and the view of many highly knowledgeable experts on VA medicine—many inside the VA's own medical department—it is now or never.

With your help, with the enormous resources at the command of your mighty organization, we can make it "now" for first-quality medical care for all our disabled veterans.

CHALLENGES OF THE NEW ACADEMIC YEAR

Mr. PELL. Mr. President, we are again at that time of year when young men and women return to college and university campuses to resume their studies.

Our institutions of higher education, as they begin another academic year, are faced with serious challenges. The rights and responsibilities of administrators, faculty, and students of our universities are being questioned, and more basically, the role of the university itself in our society is being subjected to intensive reexamination.

In my own view, this questioning and reexamination can be highly beneficial to our universities and our society if it is conducted in good faith by all parties and in a constructive and cooperative spirit.

It is important, moreover, that this reexamination be conducted with full recognition of some basic precepts: the preservation of freedom of thought which is so vital to the functioning of a university; and adherence to law, on which the preservation of all of our freedoms depends.

The president of the University of Rhode Island, Dr. Werner A. Baum, addressed himself to these questions in an address at the Independence Day celebration in Bristol, R.I. Dr. Baum's remarks are, I think, particularly appropriate as a new academic year begins. I ask unanimous consent that the text of his address be printed in the RECORD.

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

REVOLUTION THEN: EVOLUTION NOW

(By Dr. Werner A. Baum)

I am deeply honored that you asked me to speak at this, the most distinguished Fourth of July celebration in our state. But I am also frightened by appearing among men recognized as magnificent orators not only here in our state but throughout this great nation of ours. Since you have given me the opportunity, I would like to put before you some of my thoughts on the Declaration of Independence we celebrate today, on its pertinence to our times, and on the role of your state university in its implementation.

Today's youth culture, which puzzles so many who do not live with it on a daily basis, announces its desire for a new beginning, a fresh start, the Age of Aquarius. Now, certainly our society is far from perfect. Certainly there are large gaps between what we profess and what we do. Certainly we all, individually and collectively, sometimes ignore the golden rule, the Ten Commandments, the Declaration of Independence, the Bill of Rights, and various other expressions of man's lofty and noble ambition.

But this I wonder: are some of us, at our idealistic best, confusing the imperfections inherent in man himself with the faults in the system which governs him?

I would like to quote a section of our Declaration of Independence which is rarely cited, important as it is, because it does not often suit people's convenience to do so:

"Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed."

By no stretch of the imagination, in my humble opinion, can any reasonable man claim that we today are subject to evils which are insufferable. Despite all the rhetoric about suppression, oppression, deteriorating environment, hunger, discrimination, unpopular war, and so on, the evils are, to use Thomas Jefferson's term, "Sufferable." They are sufferable because our system permits us to change them without, in the words of the Declaration, "abolishing the form."

One of the miracles of the form of government which grew from that Declaration 194 years ago has been its ability to survive despite certain built-in paradoxes. Two of these paradoxes I want to discuss in particular. They are the paradoxes of majority rule with minority rights, and of individual liberty within restraints of law.

The French writer Alexis de Tocqueville, writing 140 years ago in his "Democracy in America," was among the earliest observers to note one of these dilemmas—the one of reconciling majority rule and minority right. He saw the power of majority opinion to suppress unpopular views in a democracy, and he wrote, "The authority of a *king* is purely physical . . . but the majority possesses a power which is physical and moral at the same time. It acts upon the will as well as the actions of men, and it represses not only all contests, but all controversy."

I can think of no better example of the type of democratic institution we have developed to deal with this particular paradox than the university. One of the great achievements of American democracy has been the creation and support, on an unprecedented scale, of institutions which exist for the very purpose of analyzing and criticizing that society and seeking improvements in it. Those institutions are the American universities. They play a major role in resolving the dilemma of majority rule and minority right.

The university in its role as a sanctuary for diversity serves to answer Tocqueville. It is our duty in the university to help maintain the viability of the American democracy by providing a forum for all views.

In order that we may do this, the university has been accorded what is termed academic freedom, a freedom to examine any question from all viewpoints, to hear all voices. We anger many persons of many different viewpoints because we carry out Justice Oliver

Wendell Holmes' dictum that, "if there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought. Not free thought for those who agree with us, but freedom for the thought we hate."

In this quest in the university we live up to the expression of the American mind which men put to words 194 years ago in the Declaration of Independence. We provide a forum for the minority opinion as well as the majority, even though the opinion may be hateful to the majority.

A second paradox of our system is that of liberty and law. The theory of government set forth in our Declaration of Independence was based on the natural law concept. Jefferson and his colleagues had absorbed the beliefs of philosophers like John Locke, who wrote of the state of nature. Said Locke, "The state of nature has a law to govern it, which obliges everyone. And reason, which is that law, teaches all mankind that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."

In Locke's state of nature, then, all men have freedom, yet are bound by law. This paradox, too, faces us all, including the university. The university would not be true to the Declaration of Independence if it failed to observe its dedication to law. And that is why academic freedom cannot exist without academic responsibility.

Civil law, like natural law, is based on the concept of responsibility. James Bryant Conant told the overseers of Harvard some years ago that the duty of educators to their students is to "cultivate in the largest possible number of our citizens an appreciation of both the responsibilities and the benefits which come to them because they are Americans and are free." As an institution, the university itself shares these responsibilities as well as these benefits of being American and of being free.

We cannot yield to the pressure of a political majority to suppress unpopular opinion. At the same time, we cannot allow any expression of opinion to violate the legal precedents, such as the doctrine of clear and present danger, which exist concerning the freedom of speech. Nor are we obligated to or can we permit excess which would violate both the safety of the government which supports the university and the spirit of the Declaration of Independence which foresaw a government of law.

The historian Samuel Eliot Morrison notes: "To the Americans of 1776, liberty meant, first, freedom under laws of their own making and, second, the right to do anything that did not harm another. One of the crisp sayings of John Locke, with whom all reading Americans were familiar, was "Where law ends, tyranny begins."

In the spirit of '76, I pledge to you as the president of this state's rapidly maturing university that there will be neither tyranny of the majority nor tyranny of the minority at the University of Rhode Island.

If our society is indeed undergoing basic change in this age of Aquarius, then let us ensure that the change is evolutionary not revolutionary. Let us ensure that it is based on the rule of reason and not on hysteria among a polarized population.

MORAL COURAGE IN THE FIGHT FOR HUMAN RIGHTS: THE LEGACY OF ROBERT F. KENNEDY

Mr. PROXMIRE. Mr. President, Robert Francis Kennedy knew the anguish of senseless death and destruction more than any of us truly realized. Speaking extemporaneously upon the assassination of the Rev. Dr. Martin Luther King, Kennedy remembered a treasured quotation from Aeschylus:

In our sleep, pain that cannot forget falls drop by drop upon the heart and in our own despair, against our will, comes wisdom through the awful grace of God.

Periodically, we all think and ponder over the gift and miracle of life. A run in the rain, along a beach, a football game—all these experiences give us the zestful, sensual feeling of breath, sweat, passion, and freshness. All these being portions of the experience of being alive.

The experience of being alive is as fragile as it is fresh and spontaneous. Auschwitz, Dachau, and Auterlitz remind us of its delicate and brittle nature. We, as a world family, cannot simply continue to hope that we will not again be ravaged and destroyed. For the systematic destruction of a people is a systematic devaluation and destruction of the fiber of all mankind. We can never allow these kinds of atrocities to occur again on this planet. We in the United States have an intense moral obligation to do all we can to make it known to the world that we will not tolerate genocide of any type, or in any conceivable form.

To this end, I again plead, as I have daily in this body for more than 3 years, that the Senate move expeditiously to the ratification of the United Nations Convention Against the Crime of Genocide.

INJUSTICE TO AMERICAN INDIANS

Mr. PELL. Mr. President, in the course of building this great Nation, in the zeal of westward expansion and economic development, we have at times in our history as a nation been less than fully sensitive to the rights of our fellow men.

We need not be reminded today of the injustices suffered by the black citizens of our country, and most of us now recall with shame the treatment accorded residents of Japanese descent during the Second World War. We are, however, prone to forget the injustices suffered by the original residents of this land—the American Indians. This is particularly true of we who live in the East, where reminders of Indian predecessors are few.

Perhaps because I have some Indian ancestry, I have had more than the average interest in the welfare of our American Indians, particularly in the East.

Recently, however, I have noted an instance of injustice of American Indians that I believe clearly calls for corrective action. I refer to the struggle by the Taos Pueblo Indians to regain control of the Blue Lake Lands in New Mexico. To the Taos Indians, these lands are a sacred place of worship.

These lands were seized by the U.S. Government more than 60 years ago and are now part of one of our national forests.

Mr. President, legislation to remove this land from the national forest and to place it under Government trusteeship for the Taos Pueblo has been introduced and passed by the other body. The passage of that bill, H.R. 471, has been urged by the President in a message to the Congress. Mr. President, I believe the bill affords an opportunity to correct an unfortunate injustice and I intend to support it.

PROGRAM OF PANAMA CANAL SOCIETY OF WASHINGTON, D.C., ANNUAL MEETING, AUGUST 15, 1970

Mr. THURMOND. Mr. President, August 15, 1970, was a day of interesting coincidences: the 56th anniversary of the opening of the Panama Canal and the 100th birthday anniversary of Hon. Maurice H. Thatcher, of Kentucky, former civil Governor of the Canal Zone, 1910–13, a most distinguished former Member of the Congress, 1923-33, and, for many years, the sole surviving member of the Isthmian Canal Commission that supervised the construction of the Panama Canal.

As a close student over many years of Panama Canal history and interoceanic canal problems, I consider it uniquely fitting that the Panama Canal Society of Washington, D.C., at its annual meeting on August 15, before a large and impressive gathering of his friends in the John Wesley Powell Auditorium of the Cosmos Club in the Nation's Capital City, commemorated the opening of the great interoceanic waterway and honored Governor Thatcher. The membership of this society, which was originally formed in 1936 by certain U.S. builders of the Panama Canal, with them Governor Thatcher, was later extended to include U.S. citizens who have participated in its subsequent maintenance, operation, sanitation, protection, defense, and modernization. A few oldtime canal builders were present and duly recognized.

Among the distinguished personages present were: Dr. Alexander Wetmore, former Secretary of the Smithsonian Institution; Rear Adm. Calvin B. Galloway, president of the Gorgas Institute of Tropical and Preventive Medicine; Dr. Fred L. Soper, distinguished authority on tropical diseases; Maj. Gen. Glen E. Edgerton, former Governor of the Panama Canal; John F. Stevens II, former official of the Baltimore & Ohio Railroad, and grandson of former Chairman and Chief Enginer John F. Stevens of the Isthmian Canal Commission; Capt. C. H. Schildhauer, former aviation executive, now vice chairman of the John F. Stevens Hall of Fame Committee; Mrs. Ailene Gorgas Wrightson, daughter of Maj. Gen. William C. Gorgas, the great sanitarian of Cuba and Panama; Mrs. David Pierre Gaillard, daughter-in-law of Col. D. D. Gaillard, after whom the famous Culebra Cut was renamed as Gaillard Cut; Dr. Edward L. R. Elson, pastor of the National Presbyterian Church and Chaplain of the U.S. Senate; Paul M. Runnestrand, executive secretary of the Canal Zone Government; Dr. Francis G. Wilson, author and political scientist; Ralph Townsend, author of books on transpacific affairs and former instructor of journalism at Columbia and Stanford Universities; Maj. Gen. Paul H. Streit, former president of the Gorgas Memorial Institute; Comdr. Homer Brett, Jr., historian general, Order of the Stars and Bars; and John R. Whit-

ney, deputy governor of the General Society of Mayflower Descendants.

The organizations represented by those present included the following: American Legion; the Filson Club of Louisville, Ky.; the Gorgas Memorial Institute of Tropical and Preventive Medicine of Washington, D.C.; the Jamestowne Society of Richmond, Va.; the Military Order of the World Wars, Washington, D.C.; the Scottish Rite Masons, Southern Jurisdiction, Washington, D.C.; the Societies of Mayflower Descendants, National and Local; the Sons of Confederate Veterans; and the Virginia Historical Society of Richmond, Va.

The officers of the Panama Canal Society for the year 1969–70 were Prof. Edwin J. B. Lewis, president; Brig. Gen. Herbert D. Vogel, vice president; and George L. Chapel, secretary and treasurer. Subsequent to the program, the following were elected as officers of the society: Brig. Gen. Herbert D. Vogel, president; Will G. Arey, vice president; and George L. Chapel as secretary and treasurer.

The Committee on Arrangements included James L. Hatcher, Comdr. William C. Humphrey, and Mr. Chapel. The program was of truly outstanding character. Preceded with a concert by a section of the U.S. Marine Corps Band, under the direction of Drum Major James R. Donovan, it was opened with the national anthem splendidly sung by Madame Patricia Bruchalski, mezzo-soprano of Baltimore, accompanied by the band, an invocation by Dr. Elson, and the Pledge of Allegiance to the Flag, led by Mr. Chapel, with professor Lewis presiding.

An interesting feature was the presentation of a huge birthday cake baked by Mrs. Charles Havlena with a slice for everybody present.

Expressions of regret, with congratulations included communications from Speaker JOHN W. MCCORMACK of the House of Representatives; Senators JOHN SHERMAN COOPER and MARLOW W. COOK of Kentucky; Representatives DANIEL J. FLOOD of Pennsylvania, LEONOR K. SULLIVAN of Missouri, and ROGERS CLARK B. MORTON from Maryland; former Panamanian Ambassador to the United States, Roberto Heurtematte, and many others, including a cablegram from Count H. d'Angerville, internationally famed genealogist of London.

The testimonials and awards for Governor Thatcher were many and of exceptional character. Those from the Isthmus, presented by Mr. Runnestrand as the special representative of Gov. Walter P. Leber of the Canal Zone were:

Certificate designating Governor Thatcher as Honorary Governor of the Canal Zone.

Night picture in color of the Thatcher Ferry Bridge.

Album containing pictures relating to Governor Thatcher's 60 years of Canal Zone associations, including visits by him and wife in recent years to the Isthmus.

Pen and pencil set mounted on historic wood.

Serving tray of tropical timber containing a mola made by San Blas Indian women.

Honorary public service award for 60 years service to the Panama Canal.

Special letters from Governor Leber with reference to Governor Thatcher's public services for which he will receive when minted the first gold medallion under the recently created Panama Canal Public Service Award.

Deputy Gov. John R. Whitney of the General Society of the Mayflower Descendants addressed the gathering briefly, referring to Governor Thatcher's service for seven terms as Governor of the District of Columbia Mayflower Society, as counsellor general of the General Society, and now as its honorary life counsellor general.

Another testimonial was the reading of a fine letter of commendation and congratulations from Gov. Louie B. Nunn of Kentucky, accompanied by the Governor's commission designating Governor Thatcher as a "Kentucky Colonel," both presented by Mrs. Franklin C. Mason of Frankfurt, Ky.

Mr. President, another feature was the announcement by Admiral Galloway that a history of the Gorgas Memorial Institute and Laboratory soon to be published is dedicated to Governor Thatcher and I ask unanimous consent that the dedication of this book be printed in the RECORD at this point in my remarks:

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

DEDICATION

This volume is affectionately dedicated to the Honorable Maurice H. Thatcher, distinguished public servant, Governor of the Panama Canal Zone 1910–1913, friend and wise counselor to Maj. General William Crawford Gorgas, member of the United States House of Representatives from the State of Kentucky 1923–1933, author and sponsor of the legislation which provided the first appropriation for the George Memorial Laboratory, Honorary President and General Counsel of the Gorgas Memorial Institute, Vice President 1948–1969, member of the Executive Committee, and strong advocate and staunch supporter of the Gorgas Memorial Institute and the Gorgas Memorial Laboratory for over 40 years.

Mr. THURMOND. Mr. President, the climactic testimonial was a letter of appreciation from the President of the United States read by General Vogel, vice president of the society, and I ask unanimous consent that it be printed in the RECORD at this point in my remarks.

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

THE WHITE HOUSE,
Washington, August 5, 1970.

Hon. MAURICE THATCHER,
Washington, D.C.

DEAR GOVERNOR THATCHER: Several days ago, H.R. 7517, a bill to provide for increased payments for certain former employees of the Canal Zone, came to my desk for signature. Since your term as Governor of the Canal Zone covered the period in which the Panama Canal was constructed, I know this legislation is of particular significance to you. For this reason, I am pleased to send you the enclosed pens to commemorate my signing this legislation.

I have also noted that you will celebrate your 100th birthday on August 15. Mrs. Nixon joins me in sending our best wishes and congratulations on this special occasion. We hope you have a most happy and memorable day and that the year ahead will bring you continued joy.

With warm regards,

Sincerely,

RICHARD NIXON.

Mr. THURMOND. Mr. President, the principal addresses were by a panel of speakers with outstanding qualifications to deal with the subjects assigned them:

Capt. Miles P. DuVal, Jr., distinguished historian of the Panama Canal and one of the Nation's leading authorities on interoceanic canal problems.

Dudley C. Bayliss, former Chief of Parkways of the National Park Service and a recognized authority on our Government's activities in the planning and development of our national parkway systems and related activities.

Prof. Richard B. O'Keeffe, former research associate for the Foreign Relations Commission of the American Legion specializing in Panama Canal history and interoceanic canal problems, who is now the assistant director of the library of the George Mason College of the University of Virginia.

The finale of the program was a moving response by Governor Thatcher followed with the singing by Madame Bruchalski, accompanied on the piano by Howard R. Thatcher, well known musician and composer of Baltimore, of one of the governor's poetic compositions, "Come You Back to Panama," to the melody of Kipling's "On the Road to Mandalay."

Following the celebration at the Cosmos Club, another feature of the day for Governor Thatcher was the reception for him by the Society of Mayflower Descendants in the District of Columbia on the beautiful lawn of the home in nearby Kenwood, Md., of Col. Frederick J. Ordway, Jr., the present governor of the local society, and Mrs. Ordway.

Features of the Ordway reception were the presentations to Governor Thatcher of a scroll bearing the names of all those in attendance and a handsome china crystal goblet, a souvenir of the celebration of the current 350th anniversary of the landing in December 1620 of the Pilgrims at Plymouth Rock.

In order that a suitable record of the August 15, 1970, historical program of the Panama Canal Society of Washington, D.C., be made available to the Nation at large, especially for research institutions, I ask unanimous consent for its principal parts to be printed at this point in the RECORD as follows:

First. Invocation by Dr. Edward L. R. Elson, S.T.D., Litt. D., LL.D., Chaplain of the U.S. Senate.

Second. Maurice H. Thatcher: "Dedicated Universal Man," by Capt. Miles P. DuVal, Jr., U.S. Navy, retired.

Third. Maurice H. Thatcher: "Conservationist Par Excellence," by Dudley C. Bayliss, Chief of Parkways, National Park Service, retired.

Fourth. Panama Canal: "Historical Prelude," by Prof. Richard Bennett O'Keeffe, George Mason College of the University of Virginia.

Fifth. Response of Gov. Maurice H. Thatcher.

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

INVOCATION BY DR. EDWARD L. R. ELSON

Let us pray. Almighty God, Creator, Preserver, and Redeemer of Mankind, unto to Whom men of all ages have lifted up their hearts and hands in prayer, we give Thee hearty thanks for this good land that Thou has given us for our heritage, for the hero's valor, patriot's devotion, the toil of hand and mind by which we have become great and strong. We thank Thee for all of the natural resources and all the human resources with which Thou hast blessed us. Make us ever mindful of Thy favor, obedient to Thy laws and glad to do Thy will. We give Thee thanksgiving for this occasion which brings us to this hour, especially for him whom we honor, for the great length of his service to mankind, for all the good and gracious influences which have flowed from his life into the lives of others and made the world richer, for his high service to this nation, and the nations beyond. We give Thee thanks. Grant to him, we pray Thee, sacred memories and hallowed recollections and the knowledge of work well done. Guide us through this, our noonday meal, blessing our fellowship and our food. Make us ever mindful of the needs of others. In the Redeemer's Name we pray. Amen.

MAURICE H. THATCHER: DEDICATED UNIVERSAL MAN

(By Capt. Miles P. DuVal, Jr.)

Mr. President, Members of the Panama Canal Society and Distinguished Guests:

The celebrated English philosopher, Francis Bacon, in his *Essay*, "Of Youth and Age", made this significant statement: "A man that is young in years may be old in hours if he have lost no time; but that happeneth rarely."

The one whom we honor today is a leader whose life has illustrated the truth of Bacon's observation; and more. Born in Illinois, where his parents were temporarily domiciled, on August 15, 1870, and reared in western Kentucky, both of which states were once countries in Virginia when the Old Dominion extended from the Atlantic seaboard to the Mississippi, the Honorable Maurice H. Thatcher has ancestral lines tracing back to early colonial days and beyond. They include William Brewster, one of the passengers on the Mayflower and the spiritual leader of the Pilgrims.

Educated in public and private schools in Kentucky and having an aptitude for literature at an early age, he learned the art of printing in the composing room of the Butler County newspaper. Just after this, he was employed in the county offices. Thus acquiring at the start of his career the habits of close application, industry and integrity, he set high standards of performance for himself.

Recognized as a man of promise, young Thatcher, after reaching his majority, was elected Clerk of the Circuit Court of Butler County in 1892, and started the study of law. After three and a half years, he resigned and moved to Frankfort, the Capital of Kentucky, for a position on the staff of the State Auditor, continued his studies in law, became a licensed attorney, and was appointed in 1898 as the Assistant Attorney General of the State.

On the conclusion of this service, the youthful attorney went to Louisville in 1900 and, after a while in the private practice of law, was appointed in the year following as the Assistant United States District Attorney for the Western District of Kentucky. He soon established himself as an able and fearless prosecutor, and served in that position until 1906, when he again resumed his law practice in Louisville.

In 1908, Mr. Thatcher was chosen as the State Inspector and Examiner for Kentucky. During his two year tenure in this position, he had invaluable experience in the study of many aspects of civil government, especially in the operations of charitable and penal institutions, and in unprecedented collections of delinquent funds due the State. His investigations led to many reforms, including the abolition of flogging in the prisons.

An outstanding political activity by him during the Frankfort period of his life, was as chairman of the successful and historic campaign of former Governor William O. Bradley for election by the State Legislature to the United States Senate.

Following the resignation of the member of the Isthmian Canal Commission then functioning as Governor of the Canal Zone, President Taft began a search for a qualified successor. Mr. Thatcher's experience in Kentucky had made him a "natural" for the position, and on April 12, 1910, the President appointed him as a member of the Commission with special assignment as Head of the Department of Civil Administration. On May 6, with his bride of two days, the gifted former Anne Bell Chinn of Frankfort, he sailed from New York for the Isthmus on the old S.S. Panama.

For more than three years in the new office, he functioned both as a Member of the Isthmian Canal Commission, and as the civil Governor of the Canal Zone at the time of peak construction, and took full advantage of the opportunities thus afforded.

Making frequent inspection trips along the line of the canal and the surrounding areas, he saw the Atlantic and Pacific locks take shape; observed vast land slides in Culebra Cut; watched Gatun, Pedro Miguel and Miraflores Locks slowly rise, arranged for the acquisition of needed additional lands in the Republic of Panama for lake purposes; and observed Gatun Lake grow from a body of water no larger than a mill pond to what was then the largest artificial lake in the world, making islands out of mountains and providing the summit level channels for the Panama Canal from Gatun to Pedro Miguel.

Along the significant occurrences witnessed by Governor Thatcher during his Canal Zone career was the first nonstop transcontinental airplane flight. That event took place on April 27, 1913, when a small sea plane piloted by Robert G. Fowler flew from Panama Bay to the Atlantic entrance of the Canal. The observation of that historic flight was to bear important fruit in the future.

Governor Thatcher's Isthmian achievements, which reflected his previous public services in Kentucky, include matters of historical interest in the Canal Zone. He was the—

1. First to recognize the evils of flogging convicts and to abolish that practice.

2. First to institute a system of rewards and denials to prisoners as an instrument for enforcing discipline—a program that reduced infractions by fifty per cent in six months.

3. First to use prison labor in the Canal Zone for the construction of highways, some of which are still in use and have served as models for road building in other Latin American countries.

4. First to introduce the teaching of Spanish in Canal Zone public schools.

5. First to enforce the Mann Act in the Canal Zone, and, by such enforcement, to send a number of notorious criminals to prison.

6. First to draft a comprehensive vehicular traffic code for the Canal Zone, which was enacted into law by the Isthmian Canal Commission.

7. First to bring about the abolition of saloons in the Canal Zone, which had become a menace, especially to our soldiers stationed there.

Of the many close associations developed by Governor Thatcher in the Canal Zone, one of the most satisfying was that with Colonel William C. Gorgas, the celebrated sanitarian whose work made the Panama Canal possible.

Among the various responsibilities of the Governor was the conduct of all the relations of the Isthmian Canal Commission with the Republic of Panama and the representatives of other countries accredited to Panama. In these duties, which included health and sanitation to the terminal cities of Panama and Colon and contiguous Panamanian areas, Governor Thatcher always exemplified the principles of the good neighbor. No request of any character by him to Panamanian authorities was ever refused.

After a change in the national administration in Washington, Governor Thatcher, as of August 18, 1913, resigned his position after more than three years of eventful service, for which he was warmly commended by Secretary of War Lindley M. Garrison and President Porras of Panama. At the time, he had no idea of what an impact his Isthmian experiences had made on him, or what would later unfold from them.

Returning to Louisville in the fall, he again took up the practice of law and assumed an active role in politics and in 1917 became a member of the city's Board of Public Safety for two years. In 1919, he was appointed as department counsel for Louisville and served in that capacity for four years with outstanding success.

In 1922, he was elected to the Congress as the Representative from the Louisville District. He was re-elected four times, serving from March, 1923 to March, 1933. Throughout his Congressional service, he was a member of the powerful House Committee on Appropriations, with assignment to the Subcommittee for the Treasury and Post Office; also to the Subcommittee for the District of Columbia. In these capacities, Congressman Thatcher's services were of eminent distinction.

He was a principal leader in establishing our air mail services, foreign and domestic, a contribution that traces back to his witnessing in 1913 of the Fowler flight across the Isthmus that had inspired him to believe in the future value of aviation for mail and general transportation purposes.

He was the author of the 1928 legislation providing for the establishment, maintenance and operation with Federal appropriations of the Gorgas Memorial Laboratory in Panama City, for which the Republic of Panama granted the necessary land and original buildings. Under the Thatcher Act this laboratory has become the outstanding institution in the world dealing with research in the field of tropical diseases.

He contributed greatly in securing legislation for the conversion of the temporary World War I Camp Knox into the major permanent military post of Fort Knox, which included the construction of storage facilities for the metallic monetary reserves of the United States. In this effort, he worked closely with General Douglas MacArthur, then Chief of Staff of the Army, and fully recognized the splendid qualities of that great soldier.

He was the author of, or a key leader for, legislation for important projects, among them the following:

Construction of the George Rogers Clark Memorial Bridge at Louisville under pioneer fiscal legislation that resulted in its ultimate freedom from tolls; and which legislation has ever since served as a model throughout the nation.

Manufacture of braille books and apparatus for blind pupils of the United States.

Construction of Ohio River navigational improvements.

Construction of a new Federal post office, customs and court building and a new marine hospital in Louisville; also a veterans' hospital at Lexington.

Construction of the Madden Dam Project in the Canal Zone that has supplied more water for lockages, generated additional power, controlled floods, and improved navigation for the Panama Canal.

Establishment of the free Thatcher Ferry across the Pacific Entrance of the Canal at Balboa and of the Thatcher Highway connecting the ferry with the Inter American Highway system in Panama. The ferry operated from 1932 for a period of thirty years transporting millions of passengers and vehicles.

Also, he was the author of the kidnapping law for the District of Columbia, which is still in effect.

In recognition of the Governor's contributions for Pan Americanism, President Hoover, in 1930, named him to a special mission to present to the people of Venezuela at Caracas a statue of Henry Clay—the great protagonist of Latin American independence.

Especially notable in his Congressional career were his effective services in support of National Park systems and historic shrines, for which he came to be widely known as an effective conservationist. The story of his achievements in this field will be given by another speaker.

After leaving the Congress in 1933, Governor Thatcher entered into the practice of law in Washington. Because of his knowledge of the Isthmus and authorship of the legislation for the Gorgas Memorial Laboratory, he was chosen first as General Counsel and then as Vice President and General Counsel of the Gorgas Memorial Institute of Tropical and Preventive Medicine, which supervises the work of the Laboratory in Panama. He held these two positions from the late 1930's to September, 1969.

Through the years following his retirement from the Congress, he has been chiefly responsible for obtaining much Congressional legislation for the benefit of the Canal, its employees, the Laboratory and the Isthmus of Panama.

His latest effort in this general connection was his effective support in the 91st Congress for beneficial legislation for retired alien employees of the Canal, chiefly West Indians. All of the many services rendered by Governor Thatcher following his retirement from the Congress have been of humane character and without financial compensation.

When the time came in 1950 for the election of General Gorgas to the Hall of Fame for Great Americans, Governor Thatcher played an important role in securing that signal honor for the great sanitarian of Cuba and the Isthmus in a field of eminent competitors.

Since World War II, the problems of the Panama Canal have been the subject of extensive debate. Governor Thatcher recognized the pattern of events as repeating the Canal struggles in the early 20th Century, saw their implications for the United States, Panama, and the entire Western Hemisphere, and has urged policies derived from reasoned lines of thought.

Invited to the Canal Zone by our Government for special occasions, the Governor has participated in the following ceremonies:

March 31, 1954. Dedication of the Goethals Memorial.

October 27, 1958. Centennial of the Birth of Theodore Roosevelt.

October 12, 1962. Dedication of Thatcher Ferry Bridge.

August 15, 1964. Celebration of the 50th Anniversary of the opening of the Panama Canal, including the unveiling of the memorial to the builders of the Panama Canal.

The Governor's contribution has not been limited to material achievements. He has honored, and continues to honor, the Panama Canal, the Isthmian area, and Kentucky with impressive writing in prose and verse, much of it of universal character, which will be read for generations to come. He has studied, and still studies Panama Canal history and problems, especially the parts played by the great leaders in its design and construction.

In the course of his long career, Governor Thatcher has received many honors, including the highest civil orders of Panama, Ecuador and Venezuela. Here it may be added that he and Mrs. Thatcher visited five continents, including North America, and became one of the most traveled couples of their generation.

One of the greatest distinctions ever bestowed by the United States on those responsible for the construction of the Panama Canal was the naming in 1961 by Act of Congress of the magnificent new bridge across the Pacific entrance of the Canal at Balboa as the Thatcher Ferry Bridge, which was opened on October 12, 1962, to replace the Thatcher Ferry. The next day, the United States honored the memory of former Chairman and Chief Engineer, John F. Stevens of the Isthmian Canal Commission, the basic architect of the Panama Canal, by the naming of the traffic circle in Balboa as Stevens Circle and in the unveiling on it a monument to that great engineer. Governor Thatcher attended both of these events. In all but the 1962 and 1964 ceremonies, Mrs. Thatcher (deceased in 1960) accompanied him.

When the time came in 1968 to organize the John F. Stevens Hall of Fame Committee to sponsor the election of Stevens to that great honor, the Governor was selected as the senior Honorary Chairman and has effectively supported the movement for Stevens as he did for Gorgas.

In 1969, at the annual meeting of the Gorgas Memorial Institute, Governor Thatcher was elected as its Honorary Life President, a position previously occupied by Presidents of the United States from Coolidge to Johnson and was re-elected as its General Counsel; which positions he yet holds.

Adhering through his life to the high standards that he set for himself in his youth at Butler County in Kentucky, he has had a career that should be an inspiration to present and future generations.

On this occasion, which arouses so many memories and so much thought, there can be no higher tribute to this dedicated universal man than to paraphrase Bacon by saying that one in advanced years may be young in spirit if he has lost no time in keeping his mind sharp with constructive endeavor.

MAURICE H. THATCHER—CONSERVATIONIST PAR EXCELLENCE

(By Dudley C. Bayliss)

Mr. President, Governor Thatcher, Members of the Panama Canal Society, distinguished guests and friends:

My wife and I are greatly pleased and honored to be invited to this happy Centenary birthday gathering in honor of Governor Thatcher, whom we have known and loved for many years.

Because my professional architectural and landscape architectural career of 33 years has been with the National Park Service, and has been concerned almost entirely with the development of national parkways in the eastern part of the country, I am most familiar with those activities of Governor Thatcher concerned with the conservation and protection of our nation's scenic, historic and recreational resources. In this field he has been active and most effective over a period of many years both in and out of Congress. A mention of some highlights of his accomplishments, I think, will confirm the value of his distinguished contributions to this country's permanent and everlasting conservation treasury.

During his years of public service from 1912 to 1933 in the House of Representatives, in addition to many other important legislative accomplishments, Governor Thatcher was the author of, and steered through the Congress, the Acts for the creation of Mammoth Cave National Park; the permanent improvement and perpetual maintenance and operation of the Lincoln Birthplace farm—now designated the Abraham Lincoln Birthplace National Historic Site; and the creation of the Zachary Taylor National Cemetery, consisting of about 20 acres including the old Taylor burial ground and a new and handsome mausoleum to house the remains of President Taylor and his wife. All of these scenic and historic sites are in Kentucky.

In 1931 Governor Thatcher organized the Eastern National Park-to-Park Highway Association and was then elected and has ever since served as its President. This Association promoted and secured the improvement of existing highways linking up national parks and other scenic and historical areas. The basic soundness of this conception has been demonstrated in the suceeding years when independent studies made by National Park Service-Bureau of Public Roads survey teams have designated routes for new national parkways in close proximity to many sections of the 1931 plan.

As time went on Governor Thatcher recognized the ever increasing volume of truck traffic, commercial roadside development and billboards on these existing highways. He was also aware of the nearing completion of two pioneer large scale national parkways, the Blue Ridge and the Natchez Trace, with truck free, scenically protected park-like roadways being developed exclusively for passenger car use and pleasure travel. He therefore advocated a similar national parkway linking The Blue Ridge and Natchez Trace by way of Great Smoky Mountains National Park, Cumberland Gap National Historical Park and Mammoth Cave National Park as a logical and desirable improvement over the corresponding portion of the Eastern National Park-to-Park Highway, thus closing the gap between these two national parkways and providing a continuous national parkway and park road of over 1530 miles from Front Royal, Virginia to Natchez, Mississippi.

A Survey of such a national parkway has been the objective of legislation initiated by Governor Thatcher and introduced in several successive Congresses by United States Senator John Sherman Cooper and Representative Eugene Siler, both of Kentucky. In 1964 the National Park Service, on the basis of Governor Thatcher's and Congressional recommendations, initiated a feasibility study, with engineering assistance furnished by the Bureau of Public Roads.

As Chief of Parkways, I had the privilege of being in charge of the National Park Service activities on the study. The study was made by detailed investigation of several routes, topographic map and aerial photographic study. It proceeded intermittently as funds and circumstances permitted and the report was completed in 1967. Governor Thatcher contributed many valuable suggestions during the study and in the preparation of the report. Publication and filing of the report has been held up, unfortunately, since that time due to budgetary considerations. It would be most desirable for this report to be submitted to the Congress at an early date.

The study disclosed that such a national parkway, to be known as the Cumberland Parkway, would have unique and unusually fine recreational potential in addition to its rich variety of scenery. It would traverse mountain regions embracing national and state parks and forests, lakes and large reservoirs, rivers, sections of blue grass country, pioneer and historic areas, ancient Indian village sites, wilderness trails, stu-

pendous underground caverns and areas of pastoral beauty interspersed with far flung vistas and panoramas. Consistent with national parkway principles the route would bypass cities and follow the most scenic location, providing full opportunity for picnic areas and overnight camping and lodge sites.

The Cumberland Parkway would extend about 450 miles from Great Smoky Mountains National Park in Tennessee through Kentucky via Cumberland Gap National Historic Park and Mammoth Cave National Park and passing near the Abraham Lincoln Birthplace National Historic Site to the Natchez Trace Parkway south of Nashville, Tennessee. More importantly, it would close a gap between the 470 mile Blue Ridge Parkway, now virtually completed, and the 450 mile Natchez Trace Parkway, about three fourths complete. It would thereby provide an overall continuous national parkway and park road more than 1530 miles in length, free from trucks and billboards, from the north end of Shenandoah National Park near Front Royal, Virginia, to the southern end of the Natchez Trace Parkway at Natchez, Mississippi. It is a vital link in this eastern system of national parkways and park roads within easy access of the most populous section of our country.

Governor Thatcher's most recent conservation efforts extending over several years have also been directed toward the establishment of the Plymouth Rock National Memorial, embracing some 12 acres surrounding the famous landing place of the Pilgrims in 1620 in Plymouth, Massachusetts. He has been very active on this project all during his service as Honorary Life Counsellor General of the General Society of Mayflower Descendants. It now appears that legislation to establish the Memorial, which has been introduced in the Senate and the House, should shortly be enacted due largely to Governor Thatcher's efforts in its behalf.

In all of these conservation achievements, which have been carried on at his personal expense, with no reimbursement, Governor Thatcher has displayed unflagging enthusiasm and encouragement, unlimited patience and the rare ability to make lasting friendships with all parties concerned. He has acted as the catalyst in keeping things and people moving toward the final goal. The National Park Service and the people of the nation have been most fortunate to have this rare and devoted interest directed toward preserving the intrinsic character of our rapidly vanishing landscape and history.

In brief it may be said of him that he is one of the nation's finest and most effective conservationists.

I might mention an example of the great strength and dedication this man possesses. Last fall, while he was hurrying to get some papers together prior to attending the Triennial Congress of the General Society of Mayflower Descendants of Plymouth, Massachusetts, he fell and cut his head severely. Despite his serious injury he was able to staunch the flow of blood, summon a conveyance and go to the hospital where many stitches were required to close the wound. Fortunately no fracture was involved. The very next day he took off by automobile for Plymouth, where he presided over a ceremony in dedication of a memorial of his ancestor Elder William Brewster of Mayflower fame, as though nothing had happened! A superhuman effort even for a man half his age? Yes, but remember this descendant of Charlemagne and William the Conqueror is no ordinary man!

In addition to his administrative, legislative and conservation abilities, Governor Thatcher has a fine literary talent in the field of poetry. With his permission I would like to conclude by reading one of the many poems he has written concerning the major national parks. I believe this an eloquent expression of the deep and abiding love this wonderful man has for the crown jewels of our nation. It is titled:

"OUR NATIONAL PARKS

"Our National parks are bits of Paradise,
Created by the hand of God, to be
What man, at length, has come to realize
As Nature's richest realms, untamed and free,
And full-designed to serve his need and pleasure;
And therefore set apart. The terrains vast,
Of awesome majesty in matchless measure,
Are vested with a beauty unsurpassed.
These mountains, hills, streams, lakes, and sea-washed zone;
These mighty chasms and buttes, all irishued;
These boundless, sculptured caverns, deep and lone;
Woods, groves, and monarchs with deathless life endued,—
Combine into a wondrous, magic whole
Of healing for the body, mind, and soul."

PANAMA CANAL: HISTORICAL PRELUDE

(By Prof. Richard Bennett O'Keeffe)

Mr. President, members of the Panama Canal Society, distinguished guests, ladies and gentlemen, in the world of today, there is struggle. There is peace. This is the year in which young Poles hone their wits with conundrums such as: "What was the most important event in international affairs in the year 1875? Answer: Lenin was five years old." Two men saw daylight in that year 1870. One, Vladimir Ulyanov, knew struggle but no peace. Indeed, in a manner almost diabolical, he brought to the planet a permanent social malignancy that ails the world still, 47 years after his death. The other man, whose centenary we are so proud to honor today has known peace and has won, in his distinguished service, our most profound respect and gratitude.

This afternoon, in a most informal way, I would like to pass along to you some observations, the fruit of my studies of the great achievement that belongs to President Theodore Roosevelt, John F. Stevens, Colonel Goethals, but most fittingly, in this happy occasion's context, to Governor Thatcher.

Ladies and gentlemen, that man I first mentioned, V. I. Lenin, nee Ulyanov, left so many vicious legacies that you may wonder at my adding the accusation of corrupting the mother tongues of many peoples. Please bear with me, however, and I believe we can journey together to where we may see a little more clearly, the greatness of the Panama enterprise. Lenin and his fellows have degraded our language, specifically with the capture and misuse of the word "exploitation." Now I *could* proffer a detailed etymological defense of "exploit," citing the *Oxford English Dictionary* derivation from the Latin verb for "to unfold"; or I could pursue the historical analysis and reveal to you *that* time, not so long ago, when "exploit" denoted a deed of great bravery or the valorous achievement of some most difficult undertaking. No longer: along with "square" and "charity" and "law and order," the word "exploitation" has come to have a prejudicial meaning.

Comrade A: Tell me, comrade, what is your definition of capitalism?

Comrade B: Gladly, capitalism is the exploitation of man by man.

Comrade A: And what is your definition of socialism?

Comrade B: Just the other way round.

It is my conviction that the achievement at Panama is an "exploit," an exploitation of the natural resources of the new world which is worthy of our deepest admiration and emulation. I shall try to develop in my talk this theme, that the Isthmian bridge is "positive exploitation."

Using the term "Isthmian bridge" may fall upon your ears as bombast. Still, before there was a canal, the bridge across this narrowest strip of Isthmian land was on rails; and before the achievement of 1855, back in the days of the almost legendary exploits of "los cristianos", this bridge transported the goods and treasure of the New and the Old Worlds on beasts of burden and in canoes to waiting caravels, thus saving about 8,000 miles of voyage distance.

The era in Panama which began with the heroism of Vasco Muñez de Balboa is extravagant in interest and fascination for anyone professing to study that region. The person and authentically documented character of the man makes him a natural for our sympathy. Whether in the chronicles of Oviedo[1] or in that excellent contemporary study of Kathleen Romoli's,[2] Balboa is hero. The terminal cities of today's Panama Canal are Colon (as you know, the Spanish name for Columbus) and Balboa. Cut through the poesy and romantic historigraphy, Balboa was the grandest and most successful of Spain's conquistadors, in the sense that measurably accounts for Spain's long rule in present day Latin America. With something fewer than 100 men, Balboa departed from the original Castillian settlement of Tierra Firme, Darien, crossed the Isthmus from Acla to the Gulf of San Miguel and returned through the territories of many Indian tribes, almost always at peace, without enslaving or destroying these tribes, and ending after four months back at Darien with a considerable amount of collected gold. We tend to overlook the Balboa, the archetype of the benevolent conquistador, because of the importance of his discovery of the western shore of the Pacific, then called the "Great Southern Sea."

If the humane opening of Panama by Balboa was negated by his successors, and historians are pretty well agreed that it was, nevertheless the results of his explorations were immense for the Western world . . . for the world. The 66 men who stood in the rip tide on September 26, 1513 and claimed for the Catholic majesties the lands and islands of the Pacific, may be seen by shallow observers as Quixotic braggarts. I suggest, on the contrary, that the force, the spirit which brought such a tiny band to make so great a claim represents the finest moment of an exuberant Spanish *elan*, a glory to all the world. With the failures, the setbacks and the disappointments that Spain's three centuries in America suffered, the effort, that crusade if you will, that explosion of arms, pious purpose and culture are historically established and, in a pleasing way, expose the fallacy and fraud of Marxism and determinism. Thousands of unsung Balboas, these Iberian pioneers, by their courage, faith and perseverance establish the claims for all time.

Charles V, Holy Roman Emperor, and his great-grandson, Philip IV of Spain, each had an "impossible dream." To take the latter first, there appeared in 1958 a curious account of the claim, put forward at the court of the Escorial, a claim to the moon for Spain.[3] The 16th century argument for this sovereignty was based on the plausibility of the King's claim to that which his subject astronomer saw in topographic detail through his newfangled telescope. In any case, the learned men of Charles V's court could see, in the sense of appreciating the tremendous opportunity a canal at Panama would afford the trade and commercial exploitation of the world, could see but . . . there simply was no way, in the technology of that world, for mankind to realize the proposal. This dream came to fulfillment in the minds and at the hands of other peoples.

The next hands to visit Panama, were, as you know, rather more ferocious, the great buccaneers and captains of Britain, Drake, Morgan *et al.* The United Kingdom's positive contribution to the exploitation of the region came in two instalments: the generalised Pax Britannica of Victorian times which promoted a great increase of marine trade, and secondly, the diplomatic initiative which, in

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Footnotes at end of article.

the Hay-Pauncefote Treaty of 1901, gave the United States its unique opportunity to build the Panama Canal.

But this is running a bit ahead. Go back mentally to the 1820's when our still struggling Republic was with difficulty attempting to secure its enormous "Great American Desert" [that portion of the Louisiana Purchase West of the 100° of Longitude]. At that time in Europe a universal man, a genius, old in years only, pondered the correspondence he had accumulated with Alexander von Humboldt, the physiographer. Johann Wolfgang von Goethe pored over charts and sketches and "wrote enthusiastically of the duty of the United States to open" such a canal.[4] I quote from a recent biography:

"But he is always interested to hear about what is going on in England, France, or distant America, in Russia or China. He hears of great projects, of proposed canals at Panama and Suez, of plans for huge harbors. In his old age his thoughts roam far over the seas . . ."[5]

However, many men there were, great or small, who desired the construction of a Panama Canal, the first true step toward its realization, the railroad across the Isthmus, came twenty years after Goethe's plaintive prophecy. Those who have read Captain DuVal's fascinating account of "The Two Streaks of Rust in the Jungle" are well aware of the fascinating history of the development of the Panama Railroad.[6] It seems to me, knowing something of the world of research, that a rich field of graduate and scholarly research lies in the history of this enterprise. First I would suggest the genesis and development of the Panama railroad: that is, the interaction of the visionary John Lloyd Stephens and the businessmen William Henry Aspinwall and Henry Chauncey with the Congress and with the Polk and Taylor/Fillmore administrations. Or another and perhaps more rewarding research would be the effectiveness of the lessons taught by the rail building experience, the lessons for the engineers and planners of the Canal.

These lessons, at the stage of hypothesis, appear to be: 1) Although no excessive fatalities due to the nature of the Panamanian Isthmus are recorded for the rail construction, there would be climatological and medical factors limiting the use of a construction labor force, a work force very much larger for a canal than for a railway. 2) The region of Panama "possessed no important resources in labor, capital, material and food, but required importation of all these materials."[7] Finally, the United States would be embarked upon the decisive development of the Western Hemisphere.

Have we learned our lessons well? The answer to this lies partly in the future. But for that part of the question which is prologue, the answer is an unequivocal yes. The French nation, an industrious and intelligent people, stumbled badly because of the persistence of their great canal builder, Ferdinand de Lesseps in the planning of the Canal. And yet there is a distinct contribution to the Canal enterprise in Godin de Lepinay's original, ingenious suggestion of 1879 as to type of canal as well as in the later French Compagnie's efforts. So many contributed so much and in so many different ways; but De Lepinay's contribution was basic, and may yet be fully realized. So we can see that there is no straight-line progression of civilization's advance, neither on the Isthmus nor elsewhere. When the opportunity, a moment's duration in the span of history, arrived for the United States, the lessons of the 19th century were advantageously used by our leadership to build the Canal.

These applied lessons, and they were brilliantly pointed out by William Barclay Parsons as early as the year 1905[8] *are:* 1) the necessity for an enormous capitalization and long-term effort which all but a few great nations, if any, were capable of sustaining; 2) the vital necessity of rail transportation in constructing the Canal and corollary to this, the fact that John F. Stevens was essentially a railroad man has great significance in the development of the Canal, planning and construction stages; and 3) the need to import the overwhelming percentage of construction materials, together with the necessity of inducing large numbers of West Indian and European laborers to come to the Isthmus.

We are all familiar with the magnificent work of William C. Gorgas. There is no need in Governor Thatcher's presence, certainly, to repeat encomiums to the former's contribution to the Canal enterprise. But I wonder, in submitting these observations, if sufficient attention has been given to the sanitation work of Gorgas on the whole Isthmus. The 15,000 ocean-going ships which safely touch the ports of Colon and Panama are a tribute to all the builders of the Panama Canal, including the man we now honor. Imagine, if you will, the quarantine stringency which would have to be in force in Panama if "Chagres fever" and other tropical diseases still raged their deadly courses there.

It is fitting to conclude in poetry, this tribute to Governor Thatcher, poet and gentleman. First a poet's prose, again the great Goethe, had such men in mind when he wrote:

Here and now begins a new epoch of world history, and you sir(s), can say that "you were there."[9]

Finally, the last stanza of "Isthmian Heroes," written by Ford Lewis Battles under the stimulus of his World War II experiences on the Isthmus:

"Hail to those men who know each struggling hour
Of building; clearly see the present task;
Above confusing murmur, say with power,
'Not ended; let us ever build, not bask.' "[10]

FOOTNOTES

[1] Fernandez de Oviedo, Gonzalo. *Historia general y natural de las Indias.* vol. III, pp. 137–352. vol. 119 in *Biblioteca de autores espanoles.* (Madrid, Coleccion Rivadeneira, 1959)

[2] Romoli, Kathleen, *Balboa of Darién, discoverer of the Pacific.* (Garden City, N.Y., Doubleday, 1953).

[3] Serrale, Joaquin. "Cuando Felipe IV le ofrendaron la luna recién conquistada por el telescopio." *Razon y Fe,* June 1958.

[4] Herring, Hubert, *A history of Latin America.* (New York, Knopf, 1964), p. 509.

[5] Friedenthal, Richard. *Goethe, his life and times.* (Cleveland, World Publishing Co., 1963), p. 472.

[6] DuVal, Miles P., Jr. *And the mountains will move.* (New York, Greenwood Press, 1968, c. 1947), pp. 3–30.

[7] *Ibid.,* p. 30.

[8] Parsons, William Barclay. "The Panama Canal." *Century Magazine,* 49:138–156 November 1905.

[9] Goethe, Johann Wolfgang von. *Goethes Werke,* Band X, *Autobiographische Schriften,* 2er. Band. (Hamburg, Chr. Wegner Verlag, 1963), p. 235: "Von hier und heute, geht eine neue Epoche der Weltgeschichte aus, und ihr könnt sagen, ihr seid dabei gewesen."

[10] Battles, Ford Lewis. Printed in DuVal, *op. cit.,* p. xvi.

RESPONSE OF GOV. MAURICE H. THATCHER

Officers and Members of the Society, Dr. Elson, Mr. Runnestrand and other distinguished guests, neighbors and friends:

It would be trite of me to say that I am overwhelmed by this observance of my centenary date; but I do thank all of you for the eloquence of your presence, and this includes the other speakers on this program. My earnest thanks also include Dr. Edward L. R. Elson, the distinguished Chaplain of the U.S. Senate for his splendid invocation; and to Col. Albert Schoepper, Leader of the Marine Band, the Commandant of the Marine Corps, Gen. Chapman; and also to the large segment of the Band, led by Drum Major Donovan, which has given us such a fine musical program.

In addition, I would express my earnest thanks and deepest appreciation to Gov. Walter P. Leber of the Canal Zone for the beautiful gifts and tangible tributes that have been brought here by my long-time friend, Paul M. Runnestrand, Executive Secretary of the Canal Zone government, who has made the presentation.

My thanks also go to Admiral Galloway, President of the Gorgas Memorial Institute of Tropical and Preventive Medicine, and to John R. Whitney, Deputy Governor of the General Society of Mayflower Descendants, for their greatly esteemed remarks.

Then, I would thank fellow officers of the Institute, who are in attendance, including the Institute's loyal and efficient Executive Secretary, Gloriela Calvo of Panama and Washington.

I am especially grateful for the presence here of those who have come from a distance including two nieces of my wife (now deceased), Mrs. James S. Darnell of Louisville, Kentucky and Mrs. Franklin C. Mason of Frankfort, Kentucky, the State Capitol, who has already appeared on this program as a personal representative of Louie B. Nunn, Governor of Kentucky, and has presented me with a very fine letter of congratulation and commendation from the Governor and my commission as a Kentucky Colonel. Also, I am pleased with the presence of two former loyal secretaries of mine, Mrs. Marcia Hoverson of Cape Cod and Mrs. Kay Leonard of West Virginia. My most earnest thanks go to Gov. Nunn.

In my extension of thanks and appreciation, I certainly wish to include Speaker McCormack and other members of the House and Senate who have written me on this occasion.

With deep emotion and heartfelt appreciation, I welcome the presence of a few of the oldtimers who helped to build the Panama Canal.

I am most grateful, indeed, to Capt. DuVal, widely known as an able historian of the Panama Canal enterprise and "occasional speaker," a term first applied to Daniel Webster many generations ago; to Dudley C. Bayliss, many years an official of the National Park Service with assignment as Chief of the National Parkway System; and to Prof. Richard B. O'Keeffee, former Research Associate of the Foreign Relations Commission of the American Legion, specializing in Panama Canal history and problems, and now a Staff Director of the Library of the George Mason College of the University of Virginia.

Then, we owe much to George L. Chapel, the tireless Secretary-Treasurer of this Society for his effective services in helping to make this event a success. Also, we owe Mrs. Charles Havlena thanks for baking a cake large enough to supply each of us with an adequate slice.

I note with appreciation the presence of John DeLay, accompanied by Mrs. DeLay, now occupying the post of National Parkway Studies.

I am sure we are all delighted with the singing of Madam Patricia Bruchalski, who sang The National Anthem with the Marine Band. Later, she will sing as a climactic feature of this program some verses from the poem I wrote a good many years ago, "Come You Back to Panama," set to the air of "On the Road to Mandalay" by Kipling. She will be accompanied at the piano by Howard R. Thacker, widely known musician and composer. Both are from Baltimore, and Madame Bruchalski is now singing there in summer opera.

The assemblage would probably like to know something of the reasons why I have lived beyond the age of three score and ten. I can only speak briefly in this connection.

I have sought to live temperately and with the practice of a simple dietary, based on my own experience, I have not indulged in "rebellious liquors," or anything in the way of food and drink that I thought would be in anywise deleterious. I have never tried to impose on others anything of my own habits; and my only advice to them has been to do what was best for themselves, based on their own experience. One man's meat may be another man's poison.

It might be apt for me to cite the story—old, but humorously apropos of my situation—of the old farmer who, in his 100th year, was asked by a reporter the reason for his advanced years. The answer was, "I'll tell you on next Tuesday what has caused me to tick—I am still dickering with two breakfast food outfits."

My own reasons are not quite the same as those of the old farmer. I never cared for publicity as regards my age. I retain in normal fashion, mind and memory; and my interests and desire for achievement have served to keep me young in thought and deed. Duty is, indeed, the chief consideration.

Luck and chance have much to do with our lives. I've had my share of luck, good and bad.

Whatever one may have of success is largely due to the help of friends. This has been especially true in my own case: and in every effort which requires support of many people, there is difficulty in determining who is entitled to the most praise. Thus, in the building of the Panama Canal and its operation, there is glory enough for all.

Always, I have held in first esteem, the Bible, with its moral and spiritual values; and next the works of Shakespeare, with his realistic mirror of life and glorious language.

By popular standards, I suppose I could very well say that I am self-made; but in this connection, I recall the observation of Josh Billings, a famous humorist of many years ago who said, "The trouble with a self-made man is that he is too proud of his creator." However, I am like Winston Churchill in one respect, I have picked up a few things as I came along.

I am constantly intrigued by the ancient, courageous appeal of Isaiah, "Here am I Lord, send me."

On the occurrence of my birthday last year, President Nixon wrote me a greatly appreciated letter of congratulations and referred to a featured article in the Washington Post concerning my anniversary which included a reference to my poetic endeavors. I have a sustained inclination in that direction, and have always found the writing of verse an excellent form of relaxation. Some of these poems have been published in magazines and newspapers of Panama and the United States; but I have given priority always to my public duties of official nature, and to subjects of humane and conservational character. As a result, I have never found time to collate and publish a volume of verse; and if I am ever to have any fame in this field, it will have to be of posthumous nature.

I do not know that I deserve any characterization as a "universal" man. I do have interests in every direction, but do not have any developed aptitude or versatility. I have long since reached the posture of objectivity and can see myself somewhat as "others see us." Thus, I have been able to work with others in various efforts, which have proved to be for public good and humane goals.

Through the years, in addition to my official service during the Canal construction era, in and out of Congress, I have been grateful for the opportunities that have come to me to render beneficial services to this, the greatest industrial enterprise of the ages, the Panama Canal, and its employees of every category; and the Isthmus of Panama. Also, the establishment and operation of the Gorgas Memorial Laboratory in prevention of tropical disease. The Laboratory chiefly operated and maintained by congressional funds—is now generally considered to be the chief institution of its kind in all the world.

Lacking special talents and skills in the arts and sciences, I have had, in more or less degree, the every day qualities of perseverance, patience and diligence; and although what I may have achieved may not yield any during recognition in history, I, nevertheless, believe that I have accomplished some things of value, worth and benefit to many people and regions. In my efforts, I have always been anxious to serve the "underdogs"—men and women who, through no fault of their own, are driven into want and need.

Some mention has been made concerning a recent bill, the enactment of which I aided, which was largely due to my catalystic efforts. Some modest workers in the Canal organization were fully supported by Gov. Leber in certain proposed legislation that would remove a cruel discrimination against them; but congressional enactment was delayed until recently when the Senate Armed Services Committee acted and the Senate passed the bill, without change or amendment, which the House had passed a year before. The bill was signed into law by President Nixon and the two pens used by him were given to me. One of these pens, I am sending to the Isthmus for delivery to these workers, mostly West Indian, and the other pen, I am retaining as the last of fifteen pens used by Presidents of the United States—Coolidge to Nixon—in the signing into law enactments by Congress for which I was directly responsible while in Congress, or largely responsible for after I left Congress. In his letter transmitting the pens, the President, joined by Mrs. Nixon, extended warm congratulations upon my centenary, and best wishes; and my deepest thanks are due him and Mrs. Nixon.

In connection with my efforts to aid "forgotten" employees, I may, I believe, appropriately refer to another beneficial act I sponsored in Congress, in behalf of another underdog class. The measure, in brief, was for the purpose of placing on the U.S. Treasury rolls, with uninterrupted employment—as was true of other Treasury employees—the faithful and efficient storekeeper-gaugers of the Nation. These neglected men have always been under Civil Service subject to call for duty, and not free to accept other employment; their work was intermittent, and their compensation very low, though their qualifications were of the highest order. This legislation gave them all-year employment, sick and annual leave, and all benefits long accorded to other Treasury employees.

In addition to what I have already expressed, as regards my philosophy of life, I may add that I believe man's divine mission is to go through an apprenticeship here to befit him for a nobler sequence. I am a believer in the Law of Compensation. The infinite hosts of the heavens were not created as ornaments or toys, but for the benefit of the human races wherever they may be. All and everything is governed by inexorable laws of eternal character. The races have tremendous responsibilities and must rise to meet them. Man has great potentials, but he has far to go. On this small planet, he has made great progress, and to science we owe much indeed. The miracle of today becomes the commonplace of tomorrow. The general condition, however, is at low tide; and we are plagued with unmatched violence and confusion. The law of mathematics has enabled astronauts to explore the orbits of space and stand upon the moon. My hope is that science may do much to serve our great need for moral and material betterment.

Order is Heaven's first law, and must be Man's, if ever he achieves his mission.

The divinest gift ever bestowed on Man is the Moral Principle; the greatest secular gifts, healing and redemptive, Mirth and Music.

Believing in ultimate good, I would submit the ancient query—"Eventually, why not now?" The moral and spiritual laws are as immutable as the multiplication table and the Ten Commandments. The past, indeed, is prologue and must be taken into account throughout the future.

Reverting to my Isthmian tenure, I recall the fact that my wife and I came to hold in highest respect and esteem the leaders who brought about the Panamanian Revolution of 1903, whereby Panama became an independent state. These were of the highest courage and patriotism, and their efforts were inspirational in the highest degree. We came to know them and their families, and the closest ties of friendship followed. No collective memorial has yet been erected in Panama, or elsewhere, commemorating their deeds and inscribed with their names. I would suggest that such a memorial, in bronze or granite, now be erected in Panama.

Reference has been made to my prosodic efforts over the years. It may not be inappropriate for me now to read a few of these poems. First, I quote from the poem entitled, "Builders of the Panama Canal," written some years ago and published in the Panama Press at the time of the 25th Anniversary of the formal opening of the Canal. The whole consists of thirteen 8-line stanzas, and I now give you the first and last two.

"BUILDERS OF THE PANAMA CANAL

"There were workers great, and workers small—
As judged by rank—in the Enterprise;
But glory enough there was for all,
And each was great to Seeing Eyes.
Let Fame take care that her Scroll be just,
And give to each his meed of praise—
Else, out of the Ashes and the Dust,
The Shade of Censure shall upraise.

* * * * *

The mountains moved, and the waters rose;
And Faith, at last, fulfilled her Dream:
Lake, Lock, and Channel—the whole World knows—
Attest the worth of a Hope Supreme!
The ships now shuttle from Shore to Shore:
Up, up, and up—and thence straight on;
Then three times downward—and on, once more—
Into the Sunset or the Dawn!
All were as one; and They strove and wrought
To shape the Passage to the Ind.
In terms of life it was dearly bought;
In money, cheap, The Ranks are thinned
By Time and Death; but the Deed They did
Excels all others of like and kind;
Its strength and virtue cannot be hid:
It lives—all tongues and lands to bind!"

"FRIENDSHIP

"Oh, Friendship is a flow'r of precious worth;
It bridges all the bounds of time and space;
Distance and years but yield it fairer grace,
It is the same in sorrow and in mirth;
Its vital strength has neither lapse nor dearth.
When one most needs to see its cheerful face,
Behold! tis there, in its appointed place,
Inspiring courage in a troubled Earth!
Aye, Friendship is a rare, eternal bloom;
It is indigenous to ev'ry breast:
Who stifles it does grossest violence
Unto himself. Its noble rays illume
Life's darken'd way. How truly is he blest,
Who lives within its sweet beneficence!"

"MUSIC

"Oh, give me music steeped in adagio;
Melodic strains of tenderest appeal;
Themes cadenced with soft minors to reveal
The heart's experience; the ebb and flow,
Within the soul, of treasured joy and woe!
Into my inmost being let there steal
Tomorrow's dream, and memories that kneel
At sun-blest altars of the long ago!

Language of the angels, and mother tongue
For all mankind; an universal key;
Common denominator of the Race;
True elixir that helps to keep Earth young;
The bridge of distance, time—dear harmony—
Noblest of arts, and richest in its grace!"

"AGE, YOUTH, AND TIME

"Why should men age, altho they must grow old?
Why doth not Time deal gently with his own?
And why should rosy Youth his bloom withhold
From those who unto ancientry have grown?
Tell me, I pray, why Time should leave his mark—
His stamp, indelible, on face and form?
And, for ripe years, tax me with tokens dark,
Wrought from Life's long and all-relentless storm?
Were I a tree I'd bear internal rings
To prove mine age—but they'd be hid from sight:
But, being man, my span most surely brings
Inward and outward witness of my plight.
Bid me grow old—Time's flight no strength can stay:
But keep me youthful till I've passed away."

"QUATRAINS: OUR BEST

"The Years go by more swiftly than of Yore,
When Youth was prone to dally on Life's shore
As if this Mortal Round would never cease,
And Good might nought deny us of her Stone.
Where are the Stars we long have sought to see?
And where the Selves we ever hoped to be?
Where are the dreamed-of rare and precious Goals;
And where our Passports for eternity?
Yet, when the Light shall wane within the West,
May we not count Ourselves as something blest,
If, one the Whole, in Justice we can say,
Our All, tho Little, was and is—Our Best?"

BUDGETING OF COUNTER PART FUNDS FOR SOCIAL REHABILITATION ASSISTANCE PROGRAMS IN FOREIGN COUNTRIES

Mr. PELL. Mr. President, the appropriation for the international research and demonstration program of the Social and Rehabilitation Service of the Department of Health, Education, and Welfare has been reduced by the House from $7 to $4 million for fiscal 1971, a cut of $3 million. I suggest that this reduction is not in the best interest of the Nation.

This program supports many activities in the field of health abroad that complement and supplement domestic programs of the Social and Rehabilitation Service.

Advances in medical practice and technology, derived from this program, have benefited hundreds of thousands of U.S. citizens. For example, many persons, including veterans of the war in Vietnam, have been helped by improved techniques in the fitting of prosthetic devices. Other examples could be cited in such fields as cardiovascular disease, handicapped children and vocational training for the handicapped.

In this current year studies are planned in such areas as aging in contemporary society, rehabilitation of the mentally retarded, and services to the disadvantaged handicapped. All of these planned studies are closely associated with the domestic priorities of the Social and Rehabilitation Service. This program represents a unique opportunity to gain vital information in these fields.

Besides gaining valuable data for the United States, this program has also greatly aided the health services of other nations at minimal cost. For example a decade ago there were only two centers in India where an amputee could receive an artificial limb. Since 1962 eight new centers have been started, equipped, staffed, and maintained. If the $3 million are not restored, the necessary curtailment of these needed health services will certainly not favor the U.S. image abroad.

Moreover, this program serves as a bridge of understanding to some nations with whom our relations have been strained. Egypt, for example, has extended more invitations for participation than many other countries. The personal contacts thus fostered cannot but help to improve U.S. relations.

I think it important to note that these benefits accrue to the United States at additional expense to the U.S. taxpayer. The so-called counterpart funds, used for this program, originated in payments for surplus U.S. agricultural products. By agreement these funds can only be spent in the host country.

The expenditure of these funds has absolutely no effect on inflation in this country, as no moneys of the United States are involved. As of December 31, 1969, the total amount of excess currencies available to the United States in the countries involved was equivalent to $1.6 billion; the amount requested is only $7 million.

These funds are useless if not spent in the host countries. In an article in The New York Times of Sunday, August 23, 1970, Dr. Howard A. Rusk has cogently supported the obvious conclusion that the original appropriation of $7 million be restored. I ask unanimous consent that this article be printed in the RECORD.

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

HEALTH-FOR-PEACE CUT; ANY CURTAILMENT OF PROGRAM OPPOSED AS NOT HELPING THE FIGHT ON INFLATION

(By Howard A. Rusk, M.D.)

The battle of the budget continues in Congress with a heat that rivals the Washington temperature in August.

Those interested in the problems of health continue to present their views on the pain and anguish that any further budgetary cuts will bring in the fields of medical education, research and health facilities.

On the other side of coin, Administration leaders continue to fight for the budget cuts in the hope of combating inflation.

However, one budget cut recommended in the House and now being reconsidered in the Senate seems completely illogical as an anti-inflationary measure.

This is a proposed cut from $7-million to $4-million for the International Research and Demonstration Program of the Social and Rehabilitation Service. It would appear on the surface that this would mean a saving of $3-million.

ITEM CALLED MISLEADING

This, however, is completely misleading, for although the amounts appear in the record as United States dollars, they are really Polish zlotys, Yugoslav dinars, Indian and Pakistani rupee, Indonesian rupiahs, Guinean francs, Egyptian pounds and Moroccan dirhams and other assorted lots of counterpart currencies.

These are moneys that have accumulated to the United States as a result of sales of surplus agricultural commodities to these nations by the United States.

Since these nations could not afford to pay United States dollars for the commodities this Government agreed to accept payment in their national currency. The United States in turn, sponsors projects with the funds to improve the economy and health, rehabilitation and educational services in those nations.

These programs, which have been in existence for more than a decade, have been enormously successful and have cost this Government no dollars—they are "frozen assets"—by agreement. The funds must be spent in the host country.

The last figure available—for June 30, 1969—indicates that the United States Government hold the currencies of 71 countries in amounts totaling $2.135 billion.

India, for example, has a population of 500 million people. A decade ago, however, there were only two resources in all of India from which an amputee could get an artificial limb, and the limited number of limbs available were not of modern design and construction.

NEW CENTER STARTED

Using these "counterpart" funds, personnel has been trained, equipment ordered and eight new prosthetic-orthotic centers started since 1962. The plans were to start approximately two such new centers each year.

The average cost of training the personnel, purchasing equipment and supplies and maintaining the center until it becomes self-sufficient has been equivalent in rupees to around United States $15,000.

In 1962, with a grant in cruzeiros equal to United States $22,000, two four-month courses for bracemakers were held in São Paulo, Brazil.

These were so successful that the Pan American Health Organization and UNICEF sponsored three additional courses in both bracemaking and the making of artificial limbs.

As a result there are now 62 technicians in Central and South America working in 45 centers in 34 cities in 14 nations.

There are also pilot training centers throughout the world for the mentally retarded, speech and hearing clinics, mobile sight conservation clinics, vocational training for the emotionally ill, epidemiology of cardiovascular disease, and projects in tuberculosis and chronic obstructive lung diseases.

Efforts are made to select projects that may contribute to knowledge that will affect United States health and rehabilitation services.

POLISHED PROJECT CITED

The finest example of this was the development of a few years ago in Poland of a technique for the immediate or early fitting of artificial limbs that spectacularly reduced complications and the period of hospitalization.

The technique was introduced in the United States in a number of research and demonstration centers and has now become an accepted and most effective procedure. It is also being used in Vietnam.

Ironically, these projects, which have had great impact in the nations where they have been conducted, have been operated at virtually no cost to the American taxpayer. The action of the House in reducing the appropriation for this program means no saving at all to the American taxpayer.

It means only that these foreign currencies will continue to accumulate in New Delhi, Karachi, Belgrade, Warsaw, Cairo, Tunis, Rabat and elsewhere.

Even more tragic than the curtailment of needed health and rehabilitation services now being financed with the moneys is the

further downgrading of the American image overseas.

The Department of Health, Education and Welfare has sent representatives frequently to these countries, with the cost of their travel and expenses paid by counterpart funds, to stimulate the submission of applications for projects.

Now, unless Congress restores these funds, many applications will have to be rejected even though there are huge surpluses of such funds in many nations.

Today, the world-wide rehabilitation research and demonstration program is financing 83 projects in 13 countries.

The Health for Peace program has just celebrated its 10th anniversary. It would be tragic to see the program curtailed at this critical time, for its curtailment is simply not germane to the inflationary arguments.

RELIANCE ON NATIONAL GUARD AND RESERVE FORCES TO MEET THE REQUIREMENTS OF ACTIVE MILITARY FORCES FOR ADDITIONAL PERSONNEL

Mr. ELLENDER. Mr. President, on August 21, 1970, the Secretary of Defense, in a memorandum to the Secretaries of the military departments and other Department of Defense officials, established a new military manpower policy whereby the National Guard and Reserve Forces will be used to meet the requirements of the active military forces for additional personnel. In this memorandum the Secretary stated:

Guard and Reserve Units and individuals of the Selected Reserves will be prepared to be the initial and primary source for augmentation of the active forces in any future emergency requiring a rapid and substantial expansion of the active forces.

I ask unanimous consent that the memorandum be printed in the RECORD.

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

THE SECRETARY OF DEFENSE,
Washington, D.C., Aug. 21, 1970.

Memorandum for Secretaries of the Military Departments: Chairman, Joint Chiefs of Staff; Director, Defense Research and Engineering; Assistant Secretaries of Defense; Department of Defense Agencies.

Subject: Support for Guard and Reserve Forces.

The President has requested reduced expenditures during Fiscal Year 1971 and extension of these economies into future budgets. Within the Department of Defense, these economies will require reductions in overall strengths and capabilities of the active forces, and increased reliance on the combat and combat support units of the Guard and Reserves. I am concerned with the readiness of Guard and Reserve units to respond to contingency requirements, and with the lack of resources that have been made available to Guard and Reserve commanders to improve Guard and Reserve readiness.

Public Law 90–168, an outgrowth of similar Congressional concern, places responsibility with the respective Secretaries of the Military Departments for recruiting, organizing, equipping and training of Guard and Reserve Forces. I desire that the Secretaries of the Military Departments provide, in the FY 1972 and future budgets, the necessary resources to permit the appropriate balance in the development of Active, Guard and Reserve Forces.

Emphasis will be given to concurrent consideration of the total forces, active and reserve, to determine the most advantageous mix to support national strategy and meet the threat. A total force concept will be applied in all aspects of planning, programming, manning, equipping and employing Guard and Reserve Forces. Application of the concept will be geared to recognition that in many instances the lower peacetime sustaining costs of reserve force units, compared to similar active units, can result in a larger total force for a given budget or the same size force for a lesser budget. In addition, attention will be given to the fact that Guard and Reserve Forces can perform peacetime missions as a by-product or adjunct of training with significant manpower and monetary savings.

Guard and Reservist units and individuals of the Selected Reserves will be prepared to be the initial and primary source for augmentation of the active forces in any future emergency requiring a rapid and substantial expansion of the active forces. Toward this end, the Assistant Secretary of Defense (Manpower and Reserve Affairs) is responsible for coordinating and monitoring actions to achieve the following objectives:

Increase the readiness, reliability and timely responsiveness of the combat and combat support units of the Guard and Reserve and individuals of the Reserve.

Support and maintain minimum average trained strengths of the Selected Reserve as mandated by Congress.

Provide and maintain combat standard equipment for Guard and Reserve units in the necessary quantities; and provide the necessary controls to identify resources committed for Guard and Reserve logistic support through the planning, programming, budgeting, procurement and distribution cycle.

Implement the approved ten-year construction programs for the Guard and Reserves, subject to their accommodation within the currently approved TOA, with priority to facilities that will provide the greatest improvement in readiness levels.

Provide adequate support of individual and unit reserve training programs.

Provide manning levels for technicians and training and administration reserve support personnel (TARS) equal to full authorization levels.

Program adequate resources and establish necessary priorities to achieve readiness levels required by appropriate guidance documents as rapidly as possible.

MELVIN R. LAIRD.

Mr. ELLENDER. Mr. President, I commend the Secretary for this change in policy. During the course of the hearings on the Department of Defense appropriations bill for fiscal year 1971, I became convinced that limited use of National Guard and Reserve Forces to meet the personnel needs in the conflict in Southeast Asia added to the many inequities in the Selective Service System. Furthermore, we have been spending from $2 billion to $2.5 billion annually to maintain this very large National Guard and Reserve Force. In my view, the failure to use these forces more extensively has been a waste of these very large expenditures.

As a result of my concern, I requested the Department of Defense to provide the Department of Defense Appropriations Subcommittee with detailed information on the Guard and Reserve Forces. This information included detailed data on the $2,478 million requested for the support of these forces during fiscal year 1971; the cost of these forces for fiscal years 1962 through 1970; the number of active duty military and civilian personnel required to support the Guard and Reserve Forces; the number of nonprior service personnel included in the total strength; the use of these forces in previous conflicts; and the additional number of draftees needed to meet the required increase in the active duty forces for the conflict in Southeast Asia. I submitted this information in a statement to the Department of Defense Subcommittee and it is included in the hearings of May 20. I ask unanimous consent to have included in the RECORD at this point a copy of this statement.

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

Excerpt from the Hearings of the Department of Defense Subcommittee, Committee on Appropriations, U.S. Senate, on the Department of Defense appropriation bill, 1971. (Part 1, Pages 1158–1168)

GUARD AND RESERVE FORCES

Senator ELLENDER. During the course of the hearings on the budget requests for the support of the various National Guard and Reserve Forces, I was surprised to learn that over 30,000 active duty personnel are engaged in activities in direct support of the Guard and Reserve Forces. These 30,000 active duty military personnel are in addition to over 60,000 civilian employees engaged in such activities. I was also surprised when I learned that the cost of the Guard and Reserve Forces during fiscal year 1971 will total approximately $2.5 billion. These facts prompted me to go into the matter further in order that I might be able to present details on this $2.5 billion program to the full committee.

FISCAL 1971 REQUESTS

The budget requests for the support of the Guard and Reserve Forces during fiscal year 1971 total $2,478 million, of which $1,291 million is for the support of the Army National Guard and the Air National Guard, and the balance of $1,187 million is for the support of the Reserve Forces of the Army, Navy, Marine Corps, and Air Force. I will include in the record at this point a tabulation giving a breakdown of this total by appropriations.

(The tabulation follows:)

Guard and Reserve Forces fiscal year 1971 request

[In millions of dollars]

Army National Guard:	
Military personnel, Army	$21
National Guard personnel, Army	387
O. & M., Army National Guard	287
PEMA	75
Military construction	15
Total	[1] 786
Air National Guard:	
Military personnel, Air Force	8
National Guard personnel, Air Force	109
O. & M., Air National Guard	344
Aircraft procurement, Air Force	32
Other procurement, Air Force	4
Military construction, Air National Guard	8
Total	505
Army Reserve:	
Military personnel, Army	23
Reserve personnel, Army	305
O. & M., Army	132
PEMA	4
Military construction	10
Total	[1] 475
Navy Reserve:	
Military personnel, Navy	110
Reserve personnel, Navy	134
O. & M., Navy	104
Other procurement, Navy	1

Military construction, Navy Reserve	$4
Family housing	3
Total	356
Marine Corps Reserve:	
Military personnel, Marine Corps	30
Reserve personnel, Marine Corps	52
O. & M., Navy	7
O. & M., Marine Corps	7
Procurement, Marine Corps	29
Military construction, Navy Reserve	1
Total	[1] 127
Air Force Reserve:	
Military personnel, Air Force	12
Reserve personnel, Air Force	76
O. & M., Air Force	130
Aircraft procurement, Air Force	8
Other procurement, Air Force	1
Military construction, Air Force Reserve	4
Total	[1] 230
Grand total	[1] 2,478

[1] Due to rounding the above amounts do not add.

FUNDING HISTORY

Senator ELLENDER. The request for $2,478 million for the Guard and Reserve Forces for fiscal year 1971 is in line with the cost of these forces in previous fiscal years. For fiscal year 1970 the cost was $2,523 million; for fiscal year 1969, $2,141 million; for fiscal 1968, $2,203 million; and for fiscal 1967 the cost was $2,477 million. I will include in the record at this point a tabulation giving the cost of the Guard and Reserve Forces for fiscal years 1962 through 1970 and the estimate for fiscal year 1971.

(The tabulation follows:)

GUARD AND RESERVE FORCES (FISCAL YEAR 1962–70)

[In millions of dollars]

Fiscal year	Total	Army National Guard	Air Force National Guard	Reserve forces: Army	Navy	Air Force	Marine Corps
1962	1,617	508	287	348	208	155	111
1963	1,549	476	303	310	222	157	80
1964	1,784	588	350	354	250	163	80
1965	1,794	587	370	330	264	164	81
1966	2,154	686	419	330	280	180	260
1967	2,477	934	429	414	318	188	193
1968	2,203	688	440	353	301	184	237
1969	2,141	727	415	358	311	176	153
1970	2,523	834	506	439	347	234	164
1971	2,478	786	505	475	356	230	127

PLANNED PROGRAM FOR FISCAL 1971

Army National Guard

Senator ELLENDER. The requests for the support of the Army National Guard fiscal 1971 total $786 million. During fiscal year 1971 the Army National Guard plans to maintain average strength of 400,000, of which 383,058 will be in paid drill status and 16,942 will be non-prior-service personnel assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. Of the total strength of 400,000, it is estimated that 329,600 will be non-prior-service personnel.

Air National Guard

For the support of the Air National Guard the budget for fiscal 1971 includes requests totaling $505 million. During fiscal year 1971 the Air National Guard will maintain an average strength of 87,878, of which 2,612 will be non-prior-service personnel assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. Of the total strength of 87,878, it is estimated that 62,700 will be non-prior-service personnel.

Army Reserve

For the support of the Army Reserve the budget includes requests totaling $475 million. During fiscal year 1971 the Army Reserve will maintain an average strength of 260,000, of which 22,868 will be non-prior-service personnel assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. Of the total strength of 260,000, it is estimated that 239,700 will be non-prior-service personnel. In addition to those individuals in a paid drill status the request includes funds for short active duty tours of 15 days for an additional 48,000 Army reservists.

Naval Reserve

The budget includes requests totaling $356 million for the support of the Naval Reserve during fiscal year 1971. These funds will provide for an average strength of 129,000, of which 700 will be assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. Of the total strength of 129,000, about 12,400 will be non-prior-service personnel. Funds are also included in these requests for 3,350 paid training tours of 15 days for naval reservists not included in the paid drill program.

Marine Corps Reserve

For the support of the Marine Corps Reserve, the budget for fiscal year 1971 includes $127 million. These funds will provide for an average strength of 47,715, of which 5,797 will be assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. Of the total planned strength of 47,715, about 41,800 will be nonprior service personnel. The total of $127 million also includes funds for 561 active duty training tours of 15 days for personnel not engaged in the paid drill training program.

Air Force Reserve

The requests include $230 million for the support of the Air Force Reserve with an average strength of 47,921, of which 1,955 will be assigned to active duty training for at least 4 months under the provisions of the Reserve enlisted program. The total of 47,921 includes 34,500 nonprior service personnel. These funds will also provide for 2,600 15-day active duty for training tours for Air Force reservists who do not participate in the paid drill program.

USE OF ACTIVE DUTY PERSONNEL FOR SUPPORT OF GUARD AND RESERVE FORCES

The requests totaling $2,478 million for the support of the Guard and Reserve forces during fiscal year 1971 includes approximately $204.1 million for the pay and allowances and other costs of 31,106 active duty military personnel engaged in supporting the Guard and Reserve programs. I will include in the record at this point a tabulation breaking down the number of personnel and their cost for each of the services.

(The information follows:)

ACTIVE DUTY MILITARY PERSONNEL SUPPORTING GUARD AND RESERVE FORCES

	Number	Cost
Army	5,894	$43,901,000
Navy	17,635	110,287,000
Marine Corps	5,315	30,422,000
Air Force	2,262	19,468,000
Total	31,106	204,078,000

Senator ELLENDER. The need for over 31,000 active duty military personnel for the support of the Guard and Reserve Forces is subject to question.

CIVILIAN PERSONNEL ENGAGED IN THE SUPPORT OF GUARD AND RESERVE FORCES

In addition to the 31,000 active duty military personnel the budget requests include approximately $590 million for the compensation of benefits of 63,318 civilian employees that are also engaged in the support of the Guard and Reserve Forces. I will include in the record at this point a tabulation setting out the number and cost of these civilian employees by Services.

(The information follows:)

CIVILIAN PERSONNEL SUPPORTING GUARD AND RESERVE FORCES

	End strength	Cost dollar (thousands)
Army	33,643	$302,459
Navy	2,766	24,017
Marine Corps	89	665
Air Force	26,820	262,376
Total	63,318	589,517

Nonprior Service Personnel

Senator ELLENDER. It will be noted that of the planned end-strength of 972,094 Reserve and Guard personnel engaged in the various paid drill programs, 720,760 are nonprior service personnel. These are individuals who have enlisted in one of the National Guard or Reserve Forces for a period of 6 years and who must under the provisions of the law perform an initial period of active duty for training of not less than 4 months. After their enlistment in one of the Guard or Reserve Forces, these individuals are no longer subject to induction into the Armed Forces through the Selective Service System. Of course this has been a very popular program since the beginning of the war in Southeast Asia, as many young men would prefer to enlist in one of the Guard and Reserve Forces for a period of 6 years with a certainty of only 4 to 6 months active duty. I will include in the record at this point section 511 (d) of title 10 of the United States Code which authorizes this program.

(The information follows:)

"§ 511. Reserve components: terms

* * * * *

"(d) Under regulations to be prescribed by the Secretary of Defense, or the Secretary of the Treasury with respect to the Coast Guard when it is not operating as a service in the Navy, a non-prior-service person who is under twenty-six years of age, who is qualified for induction for active duty in an armed force, and who is not under orders to report for induction into an armed force under section 451–473 of title 50, appendix, may be enlisted in the Army National Guard or the Air National Guard, or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve, for a term

of six years. Each person enlisted under this subsection shall perform an initial period of active duty for training of not less than four months and shall, subject to section 269(e)(4) of this title, serve the rest of his period of enlistment as a member of the Ready Reserve. As amended Sept. 3, 1963, Pub. L. 88–110, § 3, 77 Stat. 135."

Senator ELLENDER. During fiscal year 1971 it is estimated that the National Guard and Reserve components will take in 97,750 new "6-months" trainees under the provision of the Reserve enlistment program. I will include in the record a tabulation giving the planned end strengths for fiscal year 1971, the nonprior service personnel strengths, and the number of new nonprior service enlistments planned for the National Guard and Reserve Components for fiscal year 1971.

HISTORY OF GUARD AND RESERVE FORCES STRENGTHS

Senator ELLENDER. We have been maintaining a "paid status" Guard and Reserve Force of approximately 1 million men since the end of fiscal year 1957. I will include in the record at this point a tabulation giving the total Guard and Reserve Forces personnel from June 30, 1947 through January 31, 1970. I will also include in the record at this point a tabulation giving the number of Guard and Reserve Forces in "drill pay status" for the period from June 30, 1946 through December 31, 1969.

(The tabulations follow:)

DEPARTMENT OF DEFENSE RESERVE COMPONENT PERSONNEL IN PAID STATUS, JUNE 30, 1947, TO DATE

Pay group	Total in paid status (all)	Paid drill training: Total (A, B, C, F)	Paid drill training: Drill pay status (A, B, C)	Paid drill training: Undergoing active duty basic training [1] (F)	Paid active duty training only [2] (D, E)
June 30, 1947		230,996	230,996		([3])
June 30, 1948		534,372	534,372		([3])
June 30, 1949		796,861	796,861		([3])
June 30, 1950		839,170	839,170		([3])
June 30, 1951		557,444	557,444		([3])
June 30, 1952		506,102	506,102		([3])
June 30, 1953		578,254	578,254		([3])
June 30, 1954		696,837	696,837		([3])
June 30, 1955		826,196	826,196		([3])
June 30, 1956	949,859	925,688	905,877	19,811	24,171
June 30, 1957	1,069,312	1,046,982	973,485	73,497	22,330
June 30, 1958	1,025,041	985,030	930,869	54,161	40,011
June 30, 1959	1,061,578	1,006,588	954,066	52,522	54,990
June 30, 1960	1,078,589	997,162	931,072	66,090	81,427
June 30, 1961	1,085,665	1,004,760	936,916	67,844	80,905
June 30, 1962	958,013	889,117	825,716	63,401	68,896
June 30, 1963	964,361	896,499	843,060	53,439	67,862
June 30, 1964	1,047,542	953,256	871,384	81,872	94,286
June 30, 1965	1,002,493	932,469	890,581	41,888	70,024
June 30, 1966	1,054,095	969,188	929,204	39,984	84,907
June 30, 1967	1,065,564	982,670	887,877	94,793	82,894
June 30, 1968	1,000,941	922,318	909,261	13,057	78,623
June 30, 1969	1,013,067	960,404	921,830	38,574	52,663
July 31, 1969	1,009,940	955,149	907,062	48,087	54,791
Aug. 31	1,007,807	953,016	895,742	57,274	54,791
Sept. 30	1,010,373	955,582	902,147	53,435	54,791
Oct. 31	1,006,074	951,283	897,734	53,549	54,791
Nov. 30	1,004,321	949,530	886,988	62,542	54,791
Dec. 31	1,007,686	952,895	892,454	60,441	54,791
Jan. 31, 1970	1,004,353	949,562	883,689	65,783	54,791

[1] Formerly designated "3–6 Month Active Duty Training."
[2] Number of participants in no paid drills and 15–30 days paid active duty training during the fiscal year. Budget plan estimates listed for fiscal year 1970 as shown in fiscal year 1971 budget to be revised at end of year when actual data are available.
[3] Not available.

Source: Directorate for Information Operations, Office of Secretary of Defense.

RESERVE COMPONENT PERSONNEL IN DRILL PAY STATUS BY COMPONENT, JUNE 30, 1946, TO DATE

[Excludes personnel undergoing active duty basic training]

	Total, Department of Defense	Army: National Guard	Army: Army Reserve	Naval Reserve	Marine Corps Reserve	Air Force: Air National Guard	Air Force: Air Force Reserve
June 30, 1946	None	None	None	None	None	None	None
June 30, 1947	230,996	78,241	([1])	133,510	9,158	10,087	([1])
June 30, 1948	534,372	289,531	([1])	179,541	36,242	29,048	([1])
June 30, 1949	796,861	313,805	196,427	177,177	40,543	41,418	[2] 27,491
June 30, 1950	839,170	326,395	186,541	182,840	39,868	45,084	58,442
June 30, 1951	557,444	226,785	154,816	146,807	2,422	20,057	6,557
June 30, 1952	506,102	214,646	134,937	123,420	8,988	14,888	9,223
June 30, 1953	578,254	255,887	117,323	135,980	19,775	35,556	13,733
June 30, 1954	696,837	318,776	136,918	139,199	28,781	49,845	23,318
June 30, 1955	826,196	358,241	163,137	149,142	42,856	61,306	51,514
June 30, 1956	905,877	401,999	197,340	150,193	42,080	60,054	54,211
Dec. 31, 1956	932,381	400,663	225,345	143,471	42,090	64,499	56,313
June 30, 1957	973,485	403,420	260,377	141,747	43,122	63,142	61,677
Dec. 31, 1957	896,010	386,383	217,009	129,671	39,934	66,870	56,143
June 30, 1958	930,869	272,921	272,683	129,632	42,735	64,611	48,287
Dec. 31, 1958	945,073	374,279	289,849	124,394	39,082	68,164	49,305
June 30, 1959	954,066	370,354	298,642	120,350	42,356	67,620	54,744
Dec. 31, 1959	942,682	371,255	288,393	116,343	39,785	69,390	57,516
June 30, 1960	931,072	367,840	276,992	120,232	41,562	68,021	56,425
Dec. 31, 1960	944,074	381,026	282,420	119,835	39,783	68,660	52,350
June 30, 1961	936,916	363,403	271,363	129,272	40,837	69,138	62,903
Dec. 31, 1961	873,940	345,397	268,747	115,775	38,299	49,942	55,780
June 30, 1962	825,716	323,883	244,497	110,496	41,556	48,753	56,531
Dec. 31, 1962	875,315	355,977	249,856	112,776	38,771	65,125	52,810
June 30, 1963	843,060	332,153	222,935	119,029	42,537	70,399	56,007
Dec. 31, 1963	883,029	347,178	239,842	123,583	42,010	72,578	57,838
June 30, 1964	871,384	335,678	243,070	122,652	41,952	68,963	59,069
Dec. 31, 1964	883,295	339,839	254,467	125,935	39,348	70,476	53,230
June 30, 1965	890,581	353,806	254,055	122,596	42,135	73,365	44,624
Dec. 31, 1965	942,521	399,852	250,069	134,962	39,113	75,491	43,034
June 30, 1966	929,204	399,094	244,252	122,754	44,414	75,098	43,592
Dec. 31, 1966	930,549	398,157	242,743	125,832	43,048	78,364	42,405
June 30, 1967	887,877	364,888	230,765	123,756	44,373	80,052	44,043
Dec. 31, 1967	952,624	405,752	250,422	123,874	44,064	82,523	45,989
June 30, 1968	909,261	384,968	241,507	122,906	45,730	71,813	42,337
Dec. 31, 1968	899,168	376,382	233,499	129,676	43,224	74,580	41,807
June 30, 1969	921,830	376,499	247,173	131,540	43,123	79,795	43,700
Dec. 31, 1969	892,454	367,031	234,001	122,513	45,176	80,671	43,062

[1] Inactive duty training for pay was not started until fiscal year 1949.
[2] Number as of July 31, 1949.

Source: Directorate for Information Operations, Office of Secretary of Defense, Mar. 12, 1970.

RESERVE COMPONENTS—END STRENGTHS, NONPRIOR SERVICE STRENGTHS AND NONPRIOR SERVICE ENLISTMENTS FISCAL YEAR 1971

	ARNG	USAR	USNR	USMCR	ANG	USAFR	Total
End strength	400,000	260,000	129,000	48,000	87,110	47,984	972,094
Nonprior service strength	329,600	239,700	12,400	41,760	62,700	34,500	720,760
Nonprior service enlistments	43,785	34,000	1,950	7,200	5,730	5,085	97,750

Note: Fiscal year 1971—End strength and nonprior service enlistments from fiscal year 1971 apportionment request; nonprior service strength is estimated.

USE OF GUARD AND RESERVE FORCES

Senator ELLENDER. It has always been my understanding that we maintain the large Guard and Reserve Forces to augment our Active Duty Forces when there was a need to do so, and the use of these forces prior to the buildup for the current conflict in Southeast Asia followed this basic concept.

Korean conflict

During the Korean conflict July 1, 1950, through July 26, 1953—938,379 reservists and National Guard personnel were called to active duty, I will include in the record at this point a tabulation setting out the number of units and personnel of the various Reserve components involved in this callup.

RESERVE MOBILIZATION
KOREAN CONFLICT (JULY 1, 1950 TO JULY 26, 1953)

Reserve component	Number of units	Number of individuals
Army National Guard	[2] 1,457	139,000
Army Reserve	[3] 969	244,300
Navy Reserve	[4] 42	274,563
U.S. Marine Corps Reserve	([5])	98,229
Air National Guard	[6] 20	46,413
Air Force Reserve	[7] 25	135,874
Department of Defense total	2,513	938,379

[1] Bulk of unit callups occurred during period July 1950 to June 1951; however, selected units were mobilized throughout the period.
[2] Includes 8 infantry divisions, 3 regimental combat teams, and 714 company-size units.
[3] Company-size units.
[4] Squadrons.
[5] Entire organized Marine Corps Reserve used as individual augmentees.
[6] 13 fighter-bomber, 5 fighter-interceptor, and 2 tactical reconnaissance wings.
[7] 20 troop carrier and 5 light bomb wings.

BERLIN CRISIS

Senator ELLENDER. During the Berlin crisis—October 1, 1961, through August 31, 1962—147,849 reservists and National Guard personnel were called to active duty, I will include in the record at this point a tabulation setting out the number of units and personnel of the various Reserve components involved in this callup.

(The tabulation follows:)

RESERVE MOBILIZATION

BERLIN CRISIS (OCT. 1, 1961 TO AUG. 31, 1962)

Reserve component	Number of units	Number of individuals
Army National Guard	[1] 106	67,424
Army Reserve	[2] 437	45,830
Navy Reserve	[3] 58	8,020
U.S. Marine Corps Reserve		
Air National Guard	[4] 32	23,388
Air Force Reserve	[5] 5	3,187
Department of Defense total	638	147,849

[1] Includes 2 infantry divisions and 104 nondivisional units.
[2] Co/Det-size units.
[3] 40 DD/DE surface and 18 air patrol ASW units augmented the active fleet.
[4] 32 flying and other support units (squadrons).
[5] Air Force Reserve troop-carrier units.

Cuban crisis

Senator ELLENDER. During the Cuban missile crisis in October and November of 1962 eight troop carrier wings of the Air Force Reserve were called to active duty. These units included 14,025 Reservists.

Vietnam war

At the end of fiscal year 1965 our active military forces had a total strength of 2,635,142 which included the following: Army, 968,313; Navy, 671,009; Marine Corps, 190,187; and Air Force, 823,633.

During fiscal year 1966 we started increasing the strength of our Active Duty Forces to meet the requirements of the war in South Vietnam. At the end of fiscal year 1968 these forces peaked-out at a total strength of 3,547,429—an increase of 912,287 over the fiscal year end strength. The fiscal 1968 end strength included the following: Army, 1,570,186; Navy, 765,232; Marine Corps, 307,252; and Air Force 904,759.

I will include in the record at this point a tabulation setting out the active duty end strengths for fiscal years 1964 through 1969 and the estimates for fiscal years 1970 and 1971.

(The tabulation follows:)

ACTIVE DUTY FORCES—END STRENGTHS, FISCAL YEARS 1964-71

	Fiscal year—							
	1964	1965	1966	1967	1968	1969	1970 (estimate)	1971 (estimate)
Army	972,445	968,313	1,119,046	1,442,422	1,570,186	1,511,946	1,363,210	1,239,582
Navy	667,163	671,009	744,469	751,394	765,232	775,644	693,705	643,840
Marine Corps	189,751	190,187	261,687	285,269	307,252	309,771	294,105	241,185
Air Force	855,802	823,633	886,350	897,426	904,759	862,062	809,627	783,520
Total	2,685,161	2,635,142	3,091,552	3,376,511	3,547,429	3,459,423	3,160,647	2,908,127

Senator ELLENDER. During fiscal years 1966, 1967, and 1968 we maintained Guard and Reserve Forces in "paid drill status" totaling about 900,000, so we had trained men available in the Guard and Reserve Forces to augment the Active Forces. It should be remembered that a large portion of these individuals were nonprior service personnel who were not subject to the draft. Even though we were required to increase the strength of our Active Duty Forces by 912,287 men only 36,972 National Guard and Reserve personnel were called to active duty. I will include in the record at this point a tabulation setting out the units and personnel involved in the callups of January 26, 1968, and May 13, 1968.

(The tabulation follows:)

VIETNAM WAR—RESERVE PERSONNEL ORDERED TO ACTIVE DUTY INVOLUNTARILY

Reserve component	Jan. 26, 1968, actual strength	Number of units	May 13, 1968 actual strength	Number of units	Total ordered to active duty	Total number of units
Army National Guard			12,234	34	12,234	34
Army Reserve			5,181	42	5,181	2
Naval Reserve	593	6	995	2	1,588	8
Air National Guard	9,340	14	1,333	3	10,673	7
Air Reserve	4,868	8	736	6	5,604	4
Total	14,801	28	20,479	87	35,280	115
Individual Ready Reservists (Army only)					1,692	
Total involuntarily ordered to active duty					36,972	

Draft calls

Senator ELLENDER. As indicated in this tabulation the Guard and Reserve Forces were not used to provide the additional men required in the Active Forces for the conflict in Vietnam, except for the 36,972 men involved in the two limited callups. However, let us look at the draft calls during fiscal years 1966, 1967, and 1968. During fiscal year 1965, the year prior to the build-up of the Active Forces, draft calls totaled 102,000. During fiscal year 1966 draft calls increased to 334,500; during fiscal year 1967 they totaled 288,900; and during fiscal year 1968 they reached 343,300. The record is clear: The increase in the Active Duty Forces for the war in Vietnam was accomplished by increased draft calls and the normal desire to enlist during a period of high-draft calls in order to obtain the choice of service.

ANNUAL STRENGTH AUTHORIZATIONS

I am aware of the fact that the title III of the pending Department of Defense Procurement and Research Authorization bill (H.R. 17123) provides for programed average strengths of not less than : 400,000 for the Army National Guard, 260,000 for the Army Reserve; 129,000 for the Naval Reserve, 47,715 for the Marine Corps Reserve, 87,878 for the Air National Guard, and 57,921 for the Air Force Reserve. These are the strengths on which the budget for fiscal year 1971 is based However, I think the failure to use the Guard and Reserve Forces to meet the increased requirement for Active Duty Forces for the war in Southeast Asia imposes upon this committee, the Congress, and the executive branch the responsibility to review the need for these large Guard and Reserve Forces to determine if we should continue to spend $2.5 billion annually for the support of these forces.

NATIONAL GUARD STATE MISSIONS

I want to make my position absolutely clear with respect to the need for an adequate National Guard to meet the requirements of each of the States. I know of no other organization that could take over the various State missions performed by the National Guard, and I would be the last person in the world to propose any reductions that would reduce the Guard's capability to perform these varied State missions. During calendar year 1969 the National Guard was called on more than 150 times to respond to the urgent needs of the various States. These needs range from three men called upon during a blizzard at Pender, Nebr., in January of 1969 to over 5,000 men involved in relief and cleanup activities following Hurricane Camille in August and September of 1969. I will make this matter clear in my presentation to the committee with respect to the $2.5 billion requested for Guard and Reserve Forces.

Mr. ELLENDER. Mr. President, this announced change in policy with respect to future buildups of the active duty military forces does not answer all of the questions with respect to the need of $2.5 billion annually for the support of the National Guard and Reserve forces. Why do we need to assign over 31,000 active duty military personnel at a cost of over $204 million to support these forces? Without the pressure of high draft calls can we obtain competent personnel to maintain the large strengths authorized by the Congress? Can these forces obtain the degree of readiness that is required for the "total force concept" that Secretary Laird envisions? Is it possible to reduce the strength of the National Guard forces without diminishing the capability of these forces to meet their important State missions? In these days of tight Defense budgets can we allocate $2.5 billion—and under the announced policy, the cost will be much more—to the support of these forces? These are questions that the Secretary of Defense, the Secretaries of the Army, Navy, and Air Force, the Committee on Armed Services and Appropriations of the Congress, and the Congress as a whole are going to have to consider in depth in order to devise a National Guard and a Reserve force that meet the military and State requirements that we can afford to maintain.

PROPOSED CEASE-FIRE IN VIETNAM

Mr. SCOTT. Mr. President, on behalf of the Senator from Washington (Mr. JACKSON) and myself, I ask unanimous consent to place in the RECORD the bipartisan letter which we sent to President Nixon on September 1, 1970, urging him to offer at the Paris negotiations a comprehensive proposal for an internationally supervised standstill, ceasefire in Vietnam. Nineteen Senators signed the letter.

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

U.S. SENATE,
Washington, D.C., September 1, 1970.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are encouraged by your appointment of Ambassador David K. E. Bruce to lead the U.S. delegation at Paris, and believe that this presents a new opportunity to move forward the Vietnam peace negotiations.

We wish to commend to your attention a course of action that has not yet been tried, but which we believe could move us toward a just and responsible peace.

We believe the United States should take a new political initiative by offering at Paris a comprehensive proposal for an internationally supervised standstill cease-fire throughout Vietnam.

The cease-fire proposal should spell out details regarding:

a) International peacekeeping machinery required to oversee the cease-fire, the protection of minorities against terrorism and political reprisals, and the withdrawal of all outside military forces within a specified period following the effective date of the cease-fire;

b) The conduct of prompt free elections supervised by a mixed electoral commission in which the Government of Vietnam, the National Liberation Front, and the broad middle spectrum of religious and political forces are fairly represented, with all sides agreeing to accept the results of the elections;

c) Safeguards to assure freedom of speech, assembly and the press to all the people of South Vietnam;

d) Release of all prisoners of war and political prisoners by both sides;

e) Economic and medical relief and assistance to bind the wounds of war and to provide for social and economic reconstruction in South and North Vietnam.

We believe that a proposal at this time for an overall cease-fire by all parties throughout Vietnam could present a new context for the Paris negotiations, give fresh and added meaning to our previous proposals, and create a new impetus for the other side to respond.

Since all participants in the Paris talks, including Hanoi and the National Liberation Front, have proposed elections as the basis of a final solution, a chief point of contention between the two sides is who shall conduct these elections. Clearly, fair elections with all groups free to compete in the political process cannot take place as long as the fighting continues.

It therefore seems apparent that a cease-fire is necessary before a political solution can be achieved. Indeed, negotiating a cease-fire may be a more achievable goal, since it is a more limited one than negotiating a total political solution prior to cessation of fighting. At the same time, working out the on-the-ground arrangements for a cease-fire could lead to compromises on some of the more difficult political problems.

While we are undertaking to turn the burden of the war over to the South Vietnamese, at the same time we should make this effort to achieve a cease-fire and an end to all the killing in South Vietnam, and not simply an end to American involvement in it.

Because of its possibilities for moving toward a compromise solution, this proposal may gain the interest of the other side in at least pursuing private talks, and thus aid in breaking the impasse in the negotiations. In Vietnam it would gain support among the people by reassuring them that we are intent on achieving peace and a fair settlement.

The cease-fire proposal would rally the support of moral leadership throughout this country and the world, and help to unify the vast majority of Americans who want to see the war ended in a way that assures the best chance for a durable peace. Thus it would serve to draw Americans together in a common and constructive approach toward ending this tragic and divisive conflict.

We believe that there is much to gain by making this proposal the next order of business at the Paris talks, and we hope you will give it your most serious consideration.

Should you share our interest in considering this proposal, we would be pleased to meet and discuss it with you further at your earliest convenience.

Sincerely yours,

HENRY M. JACKSON, HUGH SCOTT, BIRCH BAYH, ALAN BIBLE, ROBERT J. DOLE, BARRY GOLDWATER, JACOB K. JAVITS, WARREN G. MAGNUSON, MIKE MANSFIELD, THOMAS J. MCINTYRE, CHARLES H. PERCY, WINSTON PROUTY, JENNINGS RANDOLPH, ABRAHAM RIBICOFF, RICHARD S. SCHWEIKER, TED STEVENS, STUART SYMINGTON, RALPH YARBOROUGH, MILTON R. YOUNG.

RETIREMENT OF REAR ADM. ODALE D. WATERS, JR.

Mr. PELL. Mr. President, Rear Adm. Odale D. Waters, Jr., who has served as Oceanographer of the Navy for the past 5 years, announced recently his intention to retire. Admiral Waters will be relieved as Oceanographer of the Navy on September 23 by Rear Adm. W. W. Behrens, Jr.

Mr. President, Admiral Waters has served with great distinction as Oceanographer of the Navy. As one who has a deep interest in our national oceanographic program, both civil and military, I know of the many contributions he has made to the advancement of our national program.

To a very large extent, Admiral Waters was personally responsible for the development of a unified and comprehensive oceanographic effort within the Navy. It was under Admiral Waters that the status of the Oceanographer of the Navy was augmented by establishment of an Office of the Oceanographer of the Navy, reporting directly to the Chief of Naval Operations and to the Secretary of the Navy.

For 5 years, Admiral Waters has been responsible for the largest, most comprehensive oceanologic program in the country. With the increased sophistication of Naval operations, both on the surface and beneath the sea, the programs of the Office of the Oceanographer, including basic and applied research, ocean engineering and fleet support, have assumed increasing importance, and under the direction of Admiral Waters, these new challenges have been met with outstanding success.

At the same time, Admiral Waters has recognized the importance of the development of a strong civil oceanographic program in this country. His cooperation with the administrators of civil oceanographic programs, with university and private industrial ocean programs, has won him the respect and admiration of the entire marine community in the United States.

Mr. President, I salute Admiral Waters for a job well done, and I extend to him my personal wishes for success in whatever tasks he may undertake in the future. I also extend my congratulations and best wishes to his successor, Rear Admiral Behrens.

I ask unanimous consent that the biographies of Rear Admiral Waters and Rear Admiral Behrens be printed in the RECORD.

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

REAR ADM. ODALE D. WATERS, JR., U.S. NAVY

Odale Dabney Waters, Jr., was born in Manassas, Virginia, on July 13, 1910, son of the late Mr. and Mrs. O. D. Waters. He attended the Swavely School and Strayer Business College, Washington, D.C., prior to entering the U.S. Naval Academy, Annapolis, Maryland, on July 9, 1928. As a Midshipman he was a member of the Track Team, was Managing Editor of the "Lucky Bag," and was Battalion Commander his First Class year. Graduating with distinction, ninth in the Class of 1932, he was commissioned Ensign on June 2, 1932, and subsequently advanced in rank to that of Rear Admiral, to date from October 1, 1960.

After graduation from the Naval Academy in June 1932, he was assigned to the USS AUGUSTA (CA–31) in which he had junior officer duties in Gunnery and Fire Control while that cruiser was employed as Flagship of the Commander in Chief, Asiatic Fleet, during the period July 1932 until May 1936. He then returned to the United States, and in September 1936 joined the USS DOWNES (DD–375) as Torpedo Officer. Detached in June 1938, he was a student in Ordnance Engineering at the Naval Postgraduate School, Annapolis, until October 1940, after which he served for six months as Assistant Naval Attache at the American Embassy, London, England, also serving as Technical Observer in mine recovery operations. This resulted in his establishing the first U.S. Navy Mine Disposal School, after his return to the United States in 1941. In June of that year he became Officer-in-Charge of that school, and operated it for the training of personnel until January 1943, during the early period of the war.

Admiral Waters is authorized to wear the Navy's Explosive Ordnance Disposal Insignia badge for his qualifications in this field.

Ordered next to the USS MEMPHIS (CL–13), he served aboard a year. From February 1944 until October of that year he served as Fleet Gunnery Officer and Assistant Chief of Staff to Commander FOURTH Fleet, and for five months thereafter was Assistant Operations Officer and War Plans Officer on the Staff of the Commander in Chief of U.S. Atlantic Fleet. He was awarded a Bronze Star Medal, "For meritorious service as Gunnery, Training, War Plans Officer and Assistant Chief of Staff to Commander Fourth Fleet from March 18 to November 15, 1944, and as Assistant Operations Officer and Officer-in-Charge of War Plans on the Staff of Commander in Chief, United States Atlantic Fleet, from November 15, 1944, to April 27, 1945 . . . Commander Waters contributed materially to the success of the anti-submarine campaign in the South Atlantic by his persistent prosecutions of the training program of the FOURTH Fleet. After keen analysis and studies of past operations and of current and probable future situations, he prepared operational plans which contributed to the success of the Atlantic Fleet in the prosecution of the war . . ."

In June 1945 he assumed command of the USS LAFFEY (DD–724), and after the close of hostilities of World War II in August 1945, remained in that command until October 1946, participating in "Operation CROSS-

ROADS," the Atom Bomb Tests at Bikini in the Pacific during the summer of 1946. In November of that year he reported to the Naval Ordnance Laboratory, Washington, D.C., for duty as Senior Technical Officer and Mine Development Project Officer. There he was also engaged in the design of atomic weapons. Detached in January 1950, he spent five months as a student at the Armed Forces Staff College, Norfolk, Virginia, completing the course in July 1950.

He served as Ordnance and Gunnery Officer on the Staff of Commander Operational Development Force, from July 1950 until May 1952, after which he commanded the USS GLYNN (APA–239) until July 1953, spending three months in Sub-Arctic waters. During the three years to follow he served on the Staff of the Supreme Allied Commander, Atlantic, concerned with Strategic Applications and Policy. In September 1956 he assumed command of Destroyer Squadron TWO, which operated in the Middle East during the Suez Canal incident, as a unit of the Middle East Force.

He assumed the duties of Commander, U.S. Naval Weapons Station (formerly U.S. Naval Mine Depot), Yorktown, Virginia, on December 31, 1957. In July 1960 his selection for the rank of Rear Admiral was approved by the President of the United States, and in December of that year he reported as Commander Destroyer Flotilla ONE. From March 5, 1962 until February 1964 he served as Inspector General and Assistant Chief of the Bureau of Naval Weapons for Administration, Navy Department, then became Commander Naval Base, Los Angeles, California. In May 1965 he was designated Oceanographer of the Navy, Office of the Chief of Naval Operations, and Commander Naval Oceanographic Office, Suitland, Maryland.

Recognizing the increasing importance of oceanography the Secretary of the Navy, seconded by the Chief of Naval Operations, took vigorous action in mid 1966 to establish a new structure of command which would serve to pull together the management of the entire Navy Oceanographic Program. An Office of the Oceanographer of the Navy was established in August 1966 under Rear Admiral Waters. As head of this Office, Admiral Waters reports directly to the Chief of Naval Operations for operational purposes and to the Secretary of the Navy for policy guidance. The Oceanographer has full responsibility for all the Navy's oceanographic programs including basic and applied research, Ocean Engineering and Fleet support.

In addition to the Bronze Star Medal, Rear Admiral Waters has the American Defense Service Medal with star; the American Campaign Medal; European-African-Middle Eastern Campaign Medal; Asiatic-Pacific Campaign Medal; World War II Victory Medal. As Oceanographer of the Navy, he was awarded in 1968 the highest honor the Public Relations Society of America can bestow: a Silver Anvil for Institutional Programs in the government or military category. In 1969, he received the Navy League's Parsons Award which is awarded annually to a Navy or Marine Corps officer or enlisted man or civilian who has made the most outstanding contribution in any field of science which has furthered the development and progress of the Navy or Marine Corps.

Rear Admiral Waters was married in 1936 to Miss Lucile Elizabeth McGehee of Washington, D.C. They have four daughters, Martha Lane (now Mrs. George Philipps), Carol Weir (now Mrs. Robert Waldron), Lucile Dabney and Ann Elizabeth. Rear Admiral Waters resides at 8620 W. Blvd. Drive, Waynewood, Alexandria, Virginia 22308.

REAR ADM. WILLIAM W. BEHRENS, JR., U.S. NAVY

William Wohlsen Behrens, Jr., was born in Newport, Rhode Island, son of Mrs. W. W. Behrens, Sr., and the late Rear Admiral Behrens, USN. Following graduation from Friends Select School, Philadelphia, Pennsylvania, and Rutherford Preparatory School in Long Beach, California, he entered the U.S. Naval Academy on Presidential Appointment in June 1940. He was graduated and commissioned Ensign on June 9, 1943 (Class of 1944), and in May 1967 was selected for Rear Admiral to date from August 1, 1968.

After commissioning, he attended Submarine School, New London, Connecticut. In January 1944, he reported on board USS *Sandlance* for her first submarine war patrol, which resulted in an award of the Presidential Unit Citation for the sinking of several enemy ships including a Japanese cruiser. Because of *Sandlance's* extensive depth charge damage during this patrol, he was shortly transferred to USS *Picuda*. While serving in this ship, he participated in the assaults on the Philippine Islands, Luzon operation, and the assault and occupation of Okinawa Gunto. For outstanding service while attached to *Picuda*, he was awarded the Silver Star Medal and the Bronze Star Medal with Combat "V". The citations follow in part:

Silver Star Medal "For conspicuous gallantry and intrepidity, attached to the USS *Picuda*, during her third war patrol against enemy forces in the forward Pacific War Areas from July 23 to October 3, 1944. Skillfully supervising and coordinating communication throughout the ship, (he) rendered invaluable service to his commanding officer and contributed materially to the sinking of five enemy freighters and to the damaging of a 10,000-ton, Japanese transport . . ."

Bronze Star Medal: "For heroic service while attached to the USS *Picuda*, during her fourth war patrol in Japanese-controlled waters in the East China Sea Area from October 27 to December 2, 1944. Demonstrating sound judgment and skill in the coordination of important tactical information, (he) rendered valuable service to his commanding officer in conducting attacks which resulted in the sinking of more than 30,000 tons of enemy shipping and in the damaging of 10,000 additional tons . . ."

He also has the Ribbons for and facsimiles of the Presidential Unit Citation awarded USS *Sandlance* and the Navy Unit Commendation awarded USS *Picuda*.

After six World War II submarine patrols and service as Executive Officer of USS *Picuda*, he was in June 1946 transferred to USS *Quillback*. From September 1948 until March 1950 he served as Executive Officer of the early Guppy II submarine USS *Clamagore*. After a tour as Anti-Submarine Warfare and Sonar Instructor at the Fleet Sonar School, Key West, Florida, he joined USS *Odax* in August 1952 as Executive Officer. A year later, Lieutenant Behrens assumed command of USS *Balao;* and from August 1954 until August 1955 he commanded USS *Harder*, a new post-war fast attack submarine.

As Head of the Engineering Department, U.S. Submarine School, New London, Connecticut, he next organized and served as Director of the first Nuclear Power School in the Navy until March 1957, when he became Special Advisor on Submarine Matters to the Chief of Naval Reactors Branch, Atomic Energy Commission, Washington, D.C. In January 1958, he reported for fitting out duty aboard USS *Skipjack*, the fourth of the Navy's new nuclear powered ships and the first of the high speed, whale-shaped attack submarines. He put into commission and assumed command of *Skipjack* on April 15, 1959. In January 1961 he was awarded the Legion of Merit with citation as follows:

"For exceptionally meritorious conduct in the performance of outstanding service in 1960 as Commanding Officer of the USS *Skipjack* (SS(N)585). Exercising sound judgment, keen foresight, and forceful leadership, Commander Behrens contributed in large measure to the successful completion of a complex and highly important mission which was of great value to the United States."

He is entitled to the Ribbon for and a facsimile of the Navy Unit Commendation award USS *Skipjack* for outstanding services during the period May to June 1960.

In December 1960, he was assigned to duty in connection with fitting out USS *Ethan Allen* (SSB(N)608), and assumed duty as Commanding Officer at her commissioning, August 9, 1961. *Ethan Allen* was the first of the new nuclear submarines designed from the keel up for the Polaris mission and she fired the live nuclear war head missile in Pacific Ocean tests. After Polaris patrols, Commander Behrens was a student at the National War College, Washington, D.C., from August 1963 to June 1964. He received the degree of Master of Arts in International Affairs from George Washington University. He next headed the NATO Nuclear Planning Section, Strategic Plans Division (OP–60), Office of the Chief of Naval Operations. In that capacity, for meritorious service from August 10, 1964 to January 21, 1966, he was awarded the Navy Commendation Medal. The citation states in part:

"Captain Behrens exercised dynamic and highly imaginative leadership in guiding the responses of the U.S. Navy in the development of the many detailed planning studies conducted to identify naval responsibilities in the formation of NATO nuclear force requirements. Further, he had primary responsibility for coordinating all aspects of the Mixed-Manning Demonstration participated in by seven NATO nations aboard USS *Claude V. Ricketts* (DDG–5). Repeatedly displaying outstanding diplomacy and tact in his coordination with representatives of the participating NATO governments, he contributed markedly to this important international endeavor to which the U.S. Navy had direct commitments. By remaining sensitive to the national interest and the political requirements of his tasks, yet recognizing the military responsibilities of the Navy he consistently directed constructive efforts toward common goals . . ."

He is also entitled to the Ribbon for, and a facsimile of, the Navy Unit Commendation awarded the USS *Claude V. Ricketts*.

Assigned in January 1966 to the Office of the Secretary of Defense, Washington, D.C., he was selected for assignment as a Member of the Policy Planning Council, Department of State. For this service, he was awarded the Joint Service Commendation Medal. On December 1, 1967 he assumed command of the U.S. Seventh Fleet Amphibious Force Amphibious Group One. He was awarded a Gold Star in lieu of the Second Legion of Merit with Combat "V". The citation follows in part:

Gold Star in lieu of the Second Legion of Merit: "For exceptionally meritorious service from December 1967 to April 1968 as Commander Amphibious Force, U.S. Seventh Fleet. During this period of United States involvement in combat operations in support of the Republic of Vietnam, Rear Admiral Behrens was in command of all naval amphibious operations in Southeast Asia. He astutely directed the planning and organization of five successful amphibious assault landings, continually utilizing the Navy and Marine Forces under his command to optimum advantage. Under his able direction, the longest amphibious operation of the Vietnam conflict was successfully completed during the critical periods of the northeast monsoon and the enemy TET offensive. The success of amphibious landings and the successful resupply of forces ashore were due largely to Rear Admiral Behrens' astute

planning, ingenuity, and leadership qualities. The accomplishment of the myriad of tasks under the stress of constant enemy attack and extremely difficult operating conditions demonstrated his great dedication and assiduous attention to duty . . ."

For combat operations on January 12, 1969 to February 14, 1969 during the largest amphibious operation of the Vietnam conflict, during which Rear Admiral Behrens was in direct command, he was awarded the Bronze Star Medal (First Oak Leaf Cluster) by the famous American Division, U.S. Army.

Upon detachment as Commander Amphibious Force, U.S. Seventh Fleet on July 1, 1969, Rear Admiral Behrens was awarded a Gold Star in lieu of the Third Legion of Merit with Combat "V", for his exceptionally meritorious service in directing amphibious operations in Southeast Asia during the period January through July 1969. In July 1969, he assumed the position as Director, Politico-Military Policy Division (OP-61), Office of the Chief of Naval Operations, Navy Department.

In addition to the Silver Star Medal, Legion of Merit with two Gold Stars and Combat "V", Bronze Star Medal with "V" and first Oak Leaf Cluster, Combat Action Ribbon, Joint Service Commendation Medal, the Navy Commendation Medal, Presidential Unit Citation Ribbon, the Navy Unit Commendation Ribbon with two stars, the Meritorious Unit Commendation with two stars, Rear Admiral Behrens has the American Defense Service Medal with star, Asiatic-Pacific Campaign Medal with one silver and four bronze stars (nine engagements), American Campaign Medal, World War II Victory Medal, National Defense Service Medal with bronze star, the Vietnam Service Medal with three stars, Philippine Liberation Ribbon, the Submarine Combat Insignia and the Polaris Patrol Insignia. He also has the National Order of Vietnam and the Vietnam Gallantry Cross with Palm.

He is married to the former Betty Ann Taylor of Tampa, Florida, and they have four children, Elizabeth Hunt Behrens, William W. Behrens, III, Charles Conrad Behrens, and Susan Taylor Behrens.

CULEBRA BOMBING MUST STOP

Mr. SMITH of Illinois. Mr. President, I ask unanimous consent that certain remarks I intended to place in the RECORD last week be printed at this point in the RECORD.

I also ask unanimous consent that an article bearing on this subject, written by Mr. Carleton Kent, and published in the Chicago Sun-Times of September 3, 1970, be printed in the RECORD.

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

STOP CULEBRA BOMBING

(Statement by Senator RALPH TYLER SMITH of Illinois)

I wish to state briefly, but very strongly, my views on the bombing by the United States Navy of the Caribbean Island of Culebra. This tiny island is the home of some 700 United States citizens. It is also the target for World War II bombing and target practice by our naval forces. Reports from too many independent sources to be unreliable prove that this bombing is both dangerous and unnecessary—dangerous to the physical health and commercial well-being of the inhabitants and unnecessary to the requirements of a modern navy in the nuclear age.

As a United States Navy veteran myself, and as one who commanded a gunboat during World War II, I am well aware of the need to keep both ships and crew in fighting readiness, but it is neither necessary nor desirable to practice with outmoded weapons on United States citizens to keep in battle trim.

Mr. President, I believe in calling a spade a spade: The Navy's continued insistance on using Culebra as a target for bombs and shells in the face of the rafts of clear and convincing evidence that it is dangerous and unnecessary is not only an affront to reason: It is a total disregard for the welfare of hundreds of American citizens whose home this island has always been.

This stupid policy must cease.

PUERTO RICO GETS SMITH'S AID PROTESTING NAVY TARGET AREA

(By Carleton Kent)

WASHINGTON.—Sen. Ralph T. Smith (R-Ill.) called on the Navy Wednesday to stop its "stupid policy" of using the tiny Puerto Rican island of Culebra as a bombing and shelling target.

"As a U.S. Navy veteran myself, and as one who commanded a gunboat during World War II, I am well aware of the need to keep both ships and crew in fighting readiness, but it is neither necessary nor desirable to practice with outmoded weapons on United States citizens to keep in battle trim," Smith said.

"I believe in calling a spade a spade: The navy's continued insistance on using Culebra as a target for bombs and shells in the face of the rafts of clear and convincing evidence that it is dangerous and unnecessary is not only an affront to reason.

"It is a total disregard for the welfare of hundreds of American citizens whose home this island has always been. This stupid policy must cease."

MAYOR PRAISES SMITH

Smith drew prompt praise from Mayor Ramon Feliciano, whose constituency is 726 inhabitants of the 7-by-2-mile island, and from two young Washington lawyers who are representing the Culebran municipality on a no-fee, for-the-good-of-the-public basis.

"The Culebrans, as Puerto Ricans are American citizens without a vote in Congress, and they must depend on the courage and political disinterestedness of men like Sen. Smith to represent their legitimate aspirations," Feliciano said.

Attorney Thomas C. Jones, Jr., whose parents live in Geneva, Ill., told a press conference that Smith's statement was the strongest of more than 30 made on behalf of the Culebrans by senators.

Jones and Richard Copaken have been representing Feliciano since May. They are from former Sec. of State Dean Acheson's law firm of Covington & Burling.

DEVELOPMENT RUMOR DENIED

Feliciano said he came to Washington to consult with friendly senators; to recruit others to his cause of persuading the Navy to abandon the island; and to assure Navy officials there was no truth to the rumor, which he said came from Navy personnel, that speculators wishing to develop the island's open spaces as a resort were behind the Culebran protests.

He said that although Navy Sec. John H. Chafee refused to meet with him, Assistant Navy Sec. Frank Sanders and Joseph A. Grimes, Jr. of Chafee's office had conferred with him earlier Wednesday and had assured him "no high Navy official believes there is any substance to any allegation to the effect that land speculators are behind the protests of the Culebrans."

Asked if he approved of a new recommendation by an adviser to Gov. Luis A. Ferre of Puerto Rico that the Navy phase out its target operations on Culebra in five years, Feliciano said, "No, that's too long. One or two years . . ."

MAYOR ISN'T OPTIMISTIC

Asked if he thought the Navy would yield and leave the island, he said slowly: "I think the Navy will fight up to the end."

But Jones and Copaken thought there was promise in a move by Sen. Henry M. Jackson (D-Wash.) of the Senate Armed Services Committee to see if some compromise was acceptable to the Navy Department.

Feliciano denied there was substance to recent Navy charges that Culebrans have around the municipal pier.

"I haven't seen one Culebran doing that," he said. "I don't believe it. Maybe once in a while a fisherman uses a piece of Navy iron for an anchor on his boat . . . maybe people outside . . . maybe Navy people . . ."

MIGRANT FARMWORKER CHILDREN AND THE DRUG "RITALIN"

Mr. MONDALE. Mr. President, an article published in the Miami Herald of August 7, 1970, calls public attention to the proposal of a Broward County, Fla., doctor to use the controversial drug Ritalin on migrant children.

In view of the unknown qualities of this drug, it is particularly disturbing to learn that it is the children of migrant and seasonal farmworkers who are the recommended guinea pigs upon whom the drug will be used. The full implications of the needs and use of the drug are set forth in the Florida newspaper article, and in a feature story and editorial in the Washington Post, which I would also like to bring to the attention of the Senate.

Especially disturbing is that certain preconditions for the use of this drug cannot possibly be met when experimenting with the migrant farmworker population. Proper administration to children requires careful and accurate diagnosis of possible behavioral disorders. In view of the desperate lack of funds for fundamental preventive health care for farmworkers, it is difficult to imagine where sufficient funds for adequate, thorough or correct diagnosis will come, and even if funds are available, serious question of health care priorities is voiced. Additionally, the drugs should be administered under careful control and in the presence and guidance of a physician. Yet, by definition, the migrant is mobile, and often lives in remote locations, thus eliminating the reasonable possibility of sustained continuous medical treatment.

As chairman of the Subcommittee on Migratory Labor I have today called upon the various Federal Government units that administer migrant programs, and whose funds are proposed to be used, to respond to the following inquiries.

Are federally funded programs involved in the use of behavior modification drugs such a Ritalin, and if so, is the use of these drugs fully approved by your unit?

What assurance do you have that these drugs are necessary for migrant children?

What guarantees do you have that these drugs will not do any physical or mental harm to any of these children?

And finally, in view of the mobility, impoverishment and history of exploitation of so many migrant and seasonal farmworkers, and the possibility that

parents have only limited opportunities or channels to protest the use of these drugs, what protections for the individual rights of the parents and children involved has your unit recommended?

Let me emphasize that I am not interested in blindly standing in the way of medical progress. But let us not use the kids of the Nation's most powerless persons as guinea pigs in the name of progress.

Mr. President, I ask unanimous consent that the Miami Herald article, a Washington Post editorial of July 3, 1970, and a Washington Post feature article by Robert Maynard, published August 23, 1970, be printed in the RECORD.

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

[From the Miami Herald, Aug. 7, 1970]

MIGRANT TOT DRUG EXPERIMENT PROPOSED BY BROWARD DOCTOR

(By Louise Montgomery)

FORT LAUDERDALE.—Public health officials in Broward county are considering an experimental study using a controversial drug to control the behavior of a group of 3- and 4-year-old children of farm laborers.

The study, which must be approved by the State Board of Health, would employ ritalin, a drug described by its manufacturer as "a mild stimulant and anti-depressant, which brightens mood and improves performance."

The subjects of the experiment would be chosen at random from among 900 farm labor children referred by a federal aid program to the Broward County Health Department's Migrant Clinic in Pompano Beach for treatment of behavior disorders.

The study was proposed by Dr. Sonja S. Harrold-Lessne, a private physician who operates a baby clinic for the Health Department.

Dr. Paul Hughes, Health Department director, said Ritalin "looks like a magic drug," to many pediatricians. He said it is "useful with children who are unmanageable and can't concentrate."

Dr. Hughes said Dr. Harrold-Lessne submitted the proposal for his review about two months ago and asked him to submit it to the State Board of Health for approval.

The use of Ritalin and similar drugs has aroused a furor that reached the halls of Congress, with some opponents arguing that it is an improper and dangerous practice to introduce children to drugs.

Rep. Cornelius E. Gallagher (D., N.J.) ordered an investigation of Ritalin use in Omaha, Neb., schools and charged that drugs were being used to "deaden" energy of hyperactive children instead of converting it to creative channels.

The U.S. Food and Drug Administration also is investigating use of Ritalin and other "behavior modification" drugs. Gallagher said the drugs are classed by the government as "dangerous substances."

Dr. Harrold-Lessne proposed using the drug on Broward migrant children to determine its long-range effects on behavior, learning abilities and school adjustment. The study would involve giving Ritalin to about 100 children for one year, with follow-up studies for four more years.

For the experiment, Dr. Harrold-Lessne proposed defining "behavior disorder" as "any disorder of behavior that the teacher or parent deems dangerous to the child's own well-being as well as to that of his classmates; disruptive to normal routine; lethargic or dull to the extent that the child seems unable to participate in classroom activities."

A control group will be set up during the study.

Each child given the drug will be paired with another child of the same sex, age, ethnic group and intelligence range who will be given a placebo or sugar pill.

Dr. Harrold-Lessne said Dr. Hughes was "very interested" in the proposal, but he would have to go through the state and regional U.S. public health service offices in Atlanta "to make sure we weren't encroaching on anyone's rights."

However, she said she is trying to get private financing through a foundation for the experiment because the project got "all wrapped up in bureaucratic nonsense."

"This project has to be done," she said, "whether I do it or someone else does it."

Dr. Harrold-Lessne said she anticipates no trouble getting some sort of a grant for the project, and she is talking with a local firm, Educational Associates Inc., about having them administer the program.

Dr. Jesse Arnold, director of the Maternity and Infant Care project administered by the Health Department, is listed in the proposal as the medical coordinator. He said he acted as a consultant to Dr. Harrold-Lessne and had not discussed the project with her in about a month.

Dr. Arnold said Ritalin has been given by pediatricians "just like aspirin for a headache if we saw a kid who needed it to settle down."

Although Dr. Harrold-Lessne objected to Ritalin's being called a "mind-expanding" drug, another local doctor said that that is an appropriate term for it as it helps one part of the brain to expand and concentrate.

The doctor, who asked that his name not be published, questioned the advisability of administering the drug to groups of children, particularly since full control over migrant children would be impossible. He also said the drug sometimes produces results opposite those anticipated.

Dr. Harrold-Lessne maintains that the benefits of Ritalin are well known, although in her proposal she said no long-term studies on the effect of the drug have been undertaken.

The manufacturer of Ritalin, Ciba Pharmaceutical Co., warns in a descriptive leaflet of several possible side effects.

"Nervousness and insomnia are the most common . . ."

Other side effects may include, the leaflet says: Nausea, dizziness, palpitation, headache, drowsiness and skin rash.

"Overt psychotic behavior and psychic dependence in emotionally unstable persons have occurred rarely," it adds.

Precautions suggested by the manufacturer say patients with "an element of agitation" may react adversely.

Dr. Harrold-Lessne proposed giving the medication to the children in steadily increasing doses "until therapeutic effect, maximum dosage or adverse reactions are seen.

"A child will be withdrawn from the study only if serious adverse effects are noted," she said.

[From the Washington Post, July 3, 1970]

DRUGS AND CHILDREN

Reporter Robert C. Maynard's recent account in this newspaper of the administration of "behavior modification" drugs to supposedly overactive and unmanageable children in the Omaha, Nebraska, public schools raised some nightmare visions. Somewhere between 3000 and 6000 elementary children in Omaha, Mr. Maynard reported, "were walking around with potentially dangerous drugs in their pockets and lunch pails." And he quoted a retiring assistant superintendent of the school system as saying. "They were trading pills on the school grounds. One kid would say, 'Here, you try my yellow one and I'll try your pink one.' "

The pills inovlved are amphetamine-type drugs—those most widely used are patented drugs called Ritalin and Dexedrine—which are known to act as stimulants when taken by adults but which, paradoxically, have a quite contrary, tranquilizing effect when taken by children. Competent, careful medical researchers have found these drugs to be extremely effective in treating children afflicted with hyperactivity growing out of some physiological defect in the inhibitory portion of the brain. This defect makes a child restless, incapable of any sustained attention—and intolerably disruptive to classmates. Dexedrine, which has been used successfully since the 1930s for children suffering from this physical disorder, and Ritalin, a more recent and less tested substance, have helped such children to enlarge their attention span and to develop motivation for study. They have operated, in short, as psychic energizers, giving troubled children a start which, after a year or two of this medication enables them often to go forward quite normally on their own.

These drugs are by no means without side effects however; and their effects are by no means fully known. While it is believed that they have no addictive consequences for children, it is not certain that they may not lead to some sort of psychic dependence which in turn could lead to a resort to more dangerous drugs as a solution of life's problems. In any case, proper administration of any drugs depends in the first instance upon correct, careful diagnosis. There are many overly active children whose difficulties grow out of environmental rather than physical handicaps or out of boredom when the school curriculum has no relevance to their life experience. Far too frequently behavior problems in children are the fault of incompetent or indifferent teachers; and far too frequently such teachers try to discard children by designating them as unteachable and relegating them to a basic track or to a drug that quenches their curiosity and calms their restlessness.

A second imperative condition for the administration of drugs is that they should be dispensed only by a competent physician and consumed in his presence or under some other careful control. The idea of letting children have pills in quantity so that they can swap with one another or overdose themselves in hair-raising. The "behavior modification" drugs undoubtedly have uses. But evidently they are also subject to dangerous abuse. The medical profession ought to act to keep them under stringent control.

[From the Washington Post, Aug. 23, 1970]

CAN DRUGS HELP A "WILD" CHILD?

(By Robert C. Maynard)

Of 30 children in any American grade school classroom, the statistics say, as many as three may be "hyperactive," a word that can describe a whirlwind of a child.

In the language of that world where medicine meets education, such children—no fewer than 1.7 million and probably no more than 3 million—have minimal brain dysfunction, functional behavior problems, learning disorders or behavior disorders. Sometimes they are called neurologically handicapped.

They are the focus of considerable national attention now because of the approach to their problem that is most common today. Their behavior is "modified" by the use of stimulant medications that have themselves been the source of controversy over drug abuse.

"Speed kills," the television and magazine advertisements warn. Sustained adult usage of "speed"—amphetamines—can lead to dependency, and dependency may lead to a state known as "freaking out on speed," a hordendous trauma. (This condition, how-

ever, has not been found in children under treatment; the dosage is very small.)

Billions of amphetamine pills, also known as "uppers," are sold illicitly each year. Willing to throw out the baby with the bath water, several medical authorities have urged Congress to make amphetamines illegal if they cannot be better controlled.

THE OMAHA PROGRAM

Among the physicians alarmed at that suggestion are those scores of doctors, principally in the specialties of pediatrics, child psychiatry and pediatric neurology, who believe—and present evidence—that amphetamines are a safe and effective treatment for learning and behavior disorders in children below the age of puberty.

Taking place in private physicians' offices and medical clinics, this form of treatment received little attention until a community controversy in Omaha brought it into the national spotlight. The Omaha program was described in the Washington Post of June 29.

Omaha physicians and school officials estimated the number of children involved in drug therapy there at 3,000 to 6,000 in the city public school population of 62,000. The same Omaha spokesmen have since withdrawn that estimate, explaining that the number was intended to indicate a potential—the number of children with behavior problems—and not the actual number of children on behavior drugs in Omaha.

The Omaha program has provoked nationwide controversy. Rep. Cornelius Gallagher (D-N.J.), appalled at the idea of "modifying" children's behavior, has scheduled hearings next month, but respected physicians have also spoken up, many of them insisting that the use of amphetamines is such a tried and true method of handling these problems in children that they are surprised at all the fuss.

"There's nothing new about it," said Dr. C. Keith Conners of Massachusetts General Hospital. "It was discovered by Dr. Charles Bradley in East Providence, R.I., back in 1937. Since the 1950s, there has been a great deal of research going on in this field."

AIMED AT OBESITY

Dr. Bradley was looking for a way to cut down the weight of disturbed children. He hit upon a method, amphetamines, that was not to become a popular means of weight-reducing for another generation.

More important than weight, however, Dr. Bradley observed that the children on amphetamines were calmer. He documented what was later to become known as the "paradoxical effect." A drug that stimulates adults seems to do the reverse in children.

Dr. Barbara Fish, a child psychiatrist and an associate professor at the New York University School of Medicine, is among those who doubt there is a "paradoxical effect." In fact, Dr. Fish said, "the child is being stimulated, too. He is just being stimulated in a different way. The portion of his brain that controls his inhibitory functions is being stimulated. Instead of running around the classroom, he sits down. Instead of his attention wandering every which way, he concentrates on what is before him."

Although she has been observing children under treatment with amphetamines for nearly 20 years, Dr. Fish feels that she still does not know as much as she would like to about how amphetamines and other drugs function in the brain.

Dr. Daniel X. Freedmann, the noted University of Chicago psychiatrist, is another of those authorities in the growing field of psychopharmacology who feel that much remains to be known about mind-affecting drugs in children. After serving recently on a National Academy of Sciences panel of experts passing on the effectiveness of such drugs in children, Dr. Freedman said he felt that at least three years and possibly five years may pass before anyone can say for certain just how useful such drugs are, and for whom.

"The problem," he said, "is that we don't know what the diagnostic population really is—don't know how to predict which children will really benefit from these drugs and which will not."

A MEDICAL CONTROVERSY

Whether there is an organic illness called "minimal brain dysfunction" or whether the majority of hyperactive children are emotionally distressed is still a matter of controversy between neurologically oriented physicians and psychiatrically oriented physicians.

Dr. J. Gordon Millichap, a Chicago neurologist who teaches pediatric neurology at the Northwestern University School of Medicine, says that "emotional problems are secondary; they are a rarity." He finds neurological disorders in a majority of the 20 new cases of hyperactivity he sees each week. He also finds that a majority respond to drug treatment.

Dr. Millichap, like many other physicians treating children with drugs, prefers Ritalin—methylphenidate hydrochloride—produced by the CIBA Pharmaceutical Co. Dexidrene, generically known as dextroamphetamine, marketed by Smith Kline & French, is also popular.

Dr. Millichap's belief that the problems of the hyperactive child are basically organic is not shared by many child psychiatrists. Bellevue's Dr. Fish said: "There are too many doctors who believe that all you have to do is pop a pill into a kid. It makes the child feel better and function better, but it is just a tool that may buy you time while you work with the child."

The disagreements do not end with the cause of the problem; there are differences about what kind of problems yield to solutions with the aid of drugs.

Dr. Sidney Adler of Anaheim, Calif., is a pediatrician who specializes in the problems of children with learning disorders. He is treating 2,000 children—"from kindergarten to college," he said—with behavior modification drugs.

"We are flying by the seat of our pants," Dr. Adler said in a transcontinental telephone conversation. "There is a lot we don't know. We gain experience as we go along."

Among Dr. Adler's discoveries over the past 15 years is that behavior problems and learning problems are so linked that drugs can be employed effectively against what he describes as the "learning lag." Children with grade averages of C and D have been "pulled up to B and sometimes even A" after a period on one drug or another prescribed by Dr. Adler.

"This is an educational problem that has been dumped into the lap of medicine," Dr. Adler said. "These kids with behavior or learning problems are failures. As you know, failure only breeds more failure and frustration. That's why a lot of these kids who have these problems and don't get treated wind up getting into trouble later."

BEGAN WITH SCHOOL

Mrs. Robert O'Betz of Torrance, Calif., is the mother of a 15-year-old son with a behavior problem who was treated successfully. "We didn't know there was anything wrong until he got to school," Mrs. O'Betz said.

"He was a lovely child and we enjoyed him, but when he got to school, he couldn't handle it. He became frustrated at first, and soon actually nasty."

The O'Betzes, like thousands of other parents, had to face the difficult question of whether to give their son drugs.

"Many parents worry," said Dr. Fish, "'Is this going to make my child a drug addict?' I have rarely heard of these drugs doing that, because they don't make children feel the same reaction of being high that adults can feel. Actually, amphetamines in these dosages for children are really very mild drugs."

Mrs. O'Betz, for all of her misgivings about drugs, is pleased with the result. Not all parents are. "It was like giving our child water," a Toronto father said. "The drugs didn't do a thing."

Some doctors have the same experience with most of their child patients. "Drugs," said Dr. Bruce D. Freeman of the University of British Columbia at Vancouver, "have only been helpful to me 10 per cent of the time."

Dr. Freeman believes in exhaustive investigation. He is likely to drop into the classroom of a new patient "just to see what goes on in the child's world." He also makes the home visits, almost unheard of in psychiatry, for the same purpose, to see the child in his natural setting.

Dr. Freeman feels that drugs are most helpful in the hands of those physicians who believe in them.

"The placebo effect is well known in medicine," he said. "I think the charisma of the man using any technique is going to influence the outcome."

This wide variance of opinion and experience is one of the reasons that Dr. Daniel X. Freedman and his National Academy of Sciences panel would only go as far as to agree to label such drugs as Ritalin and Dexidrene "probably effective" for child treatment.

"There is something there," Dr. Freedman said, "but it's hard to tell yet just what it is. It is clear the drugs help some children, but which children, which class of children, which kinds of problems—all of that remains to be known."

Mrs. O'Betz, the mother of the hyperactive boy, said: "Many, many parents don't want their children on drugs, but we have no choice. I sometimes feel that the schools are pushing the kids too hard to conform to a norm."

Her concern is shared by so many parents that associations for children with learning disorders and behavior problems have sprung up in 32 states. Mrs. O'Betz is an official of the California Association for Neurologically Handicapped Children, which sends out hundreds of pieces of literature a week, including descriptions of drug-free management of hyperkinesis.

But sometimes drugs are the only solution parents see. To illustrate the point, Mrs. O'Betz tells the story of a neighbor boy, Tommy:

"He's a very good Little League pitcher—when he isn't clowning. But sometimes in the game he will hide the ball under his shirt and do all kinds of embarrassing antics. After Tommy got pills and calmed down, he did fine."

That dramatic effect has been described by other parents, such as the wife of a Washington physician who feels that problem children should be identified sooner so they can benefit from the peace that drugs bring.

"It was fantastic to see in our daughter," she said. "Within 15 minutes you could see the change. She was at peace."

She reported, as many parents have, that her daughter had trouble sleeping at night. Among the side effects of stimulant drugs are sleeplessness, loss of appetite (which is why people use amphetamines to reduce their weight) and agitation.

A DWINDLING EFFECT

Dr. Millichap said he is greatly concerned that the public concern over addiction—he feels it is groundless—might lead to curtailment of the research in hyperactivity. But he has noticed that the drug's effectiveness as a learning and behavioral aid diminishes over time, making it necessary to increase the dosage from as little as 10 milligrams to as much as 60 milligrams a day.

Of a score of physicians and other authorities who discussed the drug treatment with a reporter, Drs. Adler and Fish, whose practices are research and clinical, have been able to keep children on the drugs for the longest periods—six years in some cases. They are convinced that there are no long-range effects to be concerned about.

Dr. Conners of Massachusetts General said he has gone back over some of Dr. Bradley's patients who are now in their 30s and 40s. "We found nothing alarming or unusual about them" Dr. Conners reported. "They had no greater addiction or alcoholism problems than would be found in the general population."

Despite those scientific reassurances, wary eyes from Capitol Hill are looking at "behavior modification." In addition to Rep. Gallagher's alarm, there is a warning from a staff member of a Senate subcommittee that has been monitoring the drug industry since the Kefauver hearings in 1962.

"I remember several years ago," he said, "when the question arose of labeling amphetamines as useful in treating obesity. We invited the American Medical Association up here and asked them to assure us that this was a wise indicated use of these drugs. They assured us it was.

"So we went along with the drug companies and the 'fat doctors.' Need I tell you that now our mental institutions are filled with women suffering from self-induced paranoia from taking those pills to lose weight?"

And Dr. Sidney Berman of Washington, president of the American Academy of Child Psychiatry, said the other day:

"There is no way to be too careful when you are talking about drugs and children. They ought to be approached very cautiously and used with all of the judiciousness at a doctor's command. Anything that smacks of mass use of drugs in children must be viewed with some concern."

A HOPEFUL VIEW

So the pendulum of opinion swings between those who feel they are witnessing a medical advance and those who warn of medical mistakes. Dr. Fish feels that the new tool, used carefully, will prove itself in time. She trusts the verdict of the evidence thus far and says of the future:

"I would hope that people will overcome their fears about these drugs because, judiciously used, they can be of great help . . . I would hope to see a time when this tool, or any useful tool, when parents would come knocking on the door, asking, 'Why can't this be used to help my child?' "

MISSION TO MEXICO

Mr. DOLE. Mr. President, President Nixon's recent visit to Mexico is an excellent example of the good will that can be fostered through personal diplomacy between two national leaders.

I ask unanimous consent that editorials from the New York Times, Salt Lake Tribune, Albuquerque Journal, Seattle Post Intelligencer, and San Francisco Chronicle be printed in the RECORD.

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

[From the New York Times, Aug. 25, 1970]

USEFUL MISSION TO MEXICO

If all Presidential trips abroad could accomplish as much in short order as Mr. Nixon's 28-hour visit to Mexico, the case for personal diplomacy at the highest level would be unanswerable. Actually, the ground had been laboratory prepared for the agreement designed to resolve remaining boundary disputes between the United States and Mexico and to set up machinery for heading off such quarrels in the future.

The basic climate had been created through earlier resolution of the century-old dispute over the Chamizal area on the Rio Grande between El Paso, Texas, and Ciudad Juarez. Negotiations for the Chamizal Convention were launched by Presidents Kennedy and Lopez Mateos in 1962 and brought to fruition by Presidents Johnson and Diaz Ordaz in 1967.

These bits of recent history are recalled not to diminish the accomplishment of Presidents Nixon and Diaz Ordaz at Puerto Vallarta, but to point up the invaluable continuity that has been built up for amicable relations between the two countries in recent years. That continuity was endangered last year when Washington embarked on "Operation Intercept," a drive to halt the flow of marijuana and narcotics from Mexico.

Fortunately, the Administration soon abandoned this ham-handed venture and the two Governments agreed to replace it with "Operation Cooperation," under which Mexico promised to intensify its efforts to curb production and export of narcotics. In the improved climate, Attorney General John Mitchell accompanied Mr. Nixon to Puerto Vallarta and agreed on new measures of cooperation against the drug traffic.

Finally, Mr. Nixon has made what Mr. Diaz Ordaz calls a "constructive" proposal for improving the agreement involving distribution of the waters of the lower Colorado river. If a new agreement satisfactory to both sides can be reached by the time the old one expires in November, Mr. Nixon will have even more cause to be pleased with his personal diplomacy south of the Rio Grande.

[From the Salt Lake Tribune, Aug. 22, 1970]

GOOD NEIGHBORS MEET

Since there are no major issues plaguing the United States and Mexico, President Nixon's trip south of the border to visit President Diaz Ordaz was basically a good will expedition. But there were a few minor issues which a personal exchange of views by the two Presidents could easily help resolve.

Agreement on one of these—the problem created by the wandering Rio Grande—was quickly achieved. The river frequently shifts its course and every time that happens, the border changes, too, causing arguments over the ownership of land. Methods for handling this problem will now be submitted to the U.S. Senate and the Mexican Congress in the form of a treaty requiring ratification.

An even more important problem, on which both nations were already in agreement, arises from the fact that Mexico is the largest single source of marijuana smuggled into the U.S. as well as an important way station for heroin and cocaine produced elsewhere. A year ago, the U.S. instituted tight controls along the border, slowing down travel and distressing Mexicans who feared a loss of tourist trade. Since then, "operation cooperation" has gone into effect, with the U.S. supplying Mexico with $1 million worth of helicopters and light planes equipped with sensor devices for improved surveillance and weed killers for destroying marijuana crops. The U.S. is now urging Mexico to take stronger action to arrest and prosecute large operators.

The meeting between President Nixon and President Diaz Ordaz at Puerto Vallarta was a gala affair, complete with mariachi bands, cheering school children, streamers and confetti. And since it took place in a fairly small town, it was also a sort of counterpart to Mr. Nixon's travels "out into the country" at home. That is an excellent way of promoting good will.

Whenever an American president goes abroad, some great diplomatic triumph is often expected to occur. That certainly didn't happen at Puerto Vallarta. A good neighbor simply called on a good friend. Yet the longrun effects could be significant. Successful diplomacy involves more than striped pants and protocol.

[From the Albuquerque Journal, Aug. 23, 1970]

NIXON'S VISIT TO MEXICO

In recent years the often embittered relations between the United States and Mexico have steadily improved.

The agenda for talks between President Nixon and President Gustavo Diaz Ordaz during a 24-hour visit Thursday to the Pacific resort of Puerto Vallarta reflected this historically wary relationship. Topping the list was Mexican irritation at American attempts to stem the flow of narcotics from south of the border. The salinity of the Colorado River and problems resulting from the meanderings of the Rio Grande also were at issue.

Nixon expressed the concern of organized labor in the U.S. about factories set up along the border to process parts for electronic equipment and clothing later sold in this country as American-made.

These are hardly issues to make headlines; indeed they attest to the increasingly friendly relations between the two nations.

[From the Seattle Post Intelligencer, Aug. 5, 1970]

GOOD NEIGHBORS

Sometimes it seems as though there is nothing but bad news—and for the most part this is true. Day after day the news columns and broadcasts are filled with crises, disasters, crimes and portents of more gloom to come.

But not always. A really refreshing, bright bit of sunshine broke through late last week in the reports telling of President Nixon's colorful and highly productive visit to Mexico.

For two days the President and his wife were swept up in a fiesta whirl of warmest welcome. Everywhere they went they were hailed by Mariachi bands, throngs of cheering natives and officials whose handshakes were as sincere as their smiles.

It was a remarkable demonstration of friendship and good will. And it could have had no more fitting climax than the joint announcement by Mr. Nixon and Mexican President Gustav Diaz Ordaz of a formula for settling future border disputes.

For over 100 years the shifting Rio Grande River had made such disputes inevitable. Yet in only 28 hours of friendly talk the two chief executives were able to agree that henceforth the center of the river, no matter how it may twist, will be the dividing line.

It seems like the simplest kind of common sense and mutual compromise. Yet consider how rare such common sense and compromise are in the tense world of present-day diplomacy.

Our nation is fortunate indeed in sharing unarmed borders with its friendly neighbors to the north and south. So long as good will is cultivated by all concerned, there is no reason why every difference of opinion cannot continue to be solved in the spirit of amity which prevailed at Puerto Vallarta.

[From the San Francisco Chronicle, Aug. 24, 1970]

AGREEMENT IN PUERTO VALLARTA

The Nixon-Diaz Ordaz agreement on the boundary between their two countries is a sensible one that leaves the decision to nature and the Rio Grande.

Whithersoever the Rio Grande flows, the boundary will go right down the center of the river, shifting as the stream bed shifts. This

means that future questions about the boundary are to be determined by observation of the actual course of nature and not by composing the claims of quarreling Texans and Mexicans.

Boundary disputes have caused hard feelings between this country and Mexico over most of the years since 1884, when the border was first surveyed. That survey established the center of the Rio Grande as the boundary, but made no provision to settle disputes arising when the river changed course, as it has frequently done. In addition to providing that future sovereignty will flow with the stream, the agreement of Puerto Vallarta disposes of all territory presently under dispute, Mexico receiving three quarters of it and the United States one quarter.

The next steps are to submit the agreement to the Senates of the United States and Mexico for ratification as a treaty. Confident of approval, the two Presidents have pronounced that it will be one of the most significant Mexican-U.S. agreements of this century. If it succeeds in satisfying the jealous riparians of both countries, it will be all of that.

OCEANS

Mr. MONDALE. Mr. President, the Senator from Wisconsin (Mr. NELSON), who speaks to the environmental conscience of the Nation, is, once again, ahead of his time. He is warning that if we do not hasten to act, the oceans themselves will become poliuted, lifeless, clogged with wastes.

With the Santa Barbara oil spill and other dramatic evidence of environmental problems in the sea and along our populous coastlines, the Nation is beginning to awaken to the threat to this fragile, vital environment.

In an article in the August/September issue of National Wildlife magazine, Senator NELSON spells out the ocean environment threat in concise, dramatic, no-nonsense terms, and he calls for new national and international policies to assure that we do not wreak the same destruction in the sea as we have on the land.

Mr. President, it is hoped that the tragic future for the marine environment, of which this article warns, will never come to pass, but that we will take action now.

I ask unanimous consent that Senator NELSON'S excellent article, entitled, "We're Making a Cesspool of the Sea," be printed in the RECORD.

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

WE'RE MAKING A CESSPOOL OF THE SEA

(By GAYLORD NELSON)

In the Atlantic Ocean, about 7000 feet off the sunshine and salt-spray wonderland of Miami Beach, there is a man-made phenomenon known as the "Rose Bowl". Mockingly named for its unpleasant fragrance, the "bowl" is a large, bubbling splotch of ugly brown sprawling over those famous blue-green waves.

The "bowl" is caused by raw, untreated sewage piped into the Atlantic from the fabulous hotels and other Miami Beach facilities and from three other nearby communities. The wind and the tide have to be just right, however, to wash the wastes and debris back in from the sea and onto the beaches. And for those who can stand the stench, fishing around the "bowl" is excellent.

Ordered ten years ago by Florida's health department to treat its sewage, Miami Beach is now taking its first step—extending the discharge pipe one mile further out to sea in hopes the wastes will be picked up by the offshore Gulf Stream and carried away to the mid-Atlantic. But scientists question whether this will do any good. Dr. Durbin Tabb, marine biologist at the University of Miami says that because of prevailing winds, extending the pipe means the sewage is just going to be blown back in-shore on somebody else's beach.

With a southeast Florida megalopolis of 10 million people predicted in 20 years, Dr. Tabb and other scientists believe the "Rose Bowl" is one more ominous sign that big trouble lies ahead for that supposedly limitless resource on which the booming Florida economy is built, the sea and the beaches.

Fishermen, professional divers and marine scientists whose lives are entwined with the sea, report similar situations all along America's coastlines.

Filter cigarette butts, bandages and bubblegum have been found in stomachs of fish caught near New York city's sewage sludge dumping ground 8 to 10 miles out in the Atlantic.

NIGHTMARISH BEACH SCENES

Some northern New Jersey beaches near the Atlantic shipping lane into New York Harbor have been turned into a nightmarish scene of tar from oil slicks, plastic bottles, broken dolls, even dead animals thrown into garbage somewhere.

People are sometimes driven from their waterfront homes in Galveston Bay in Texas near the Gulf of Mexico by the stench from thousands of decaying fish killed by pollution.

In the Panacea, Florida, area on the Gulf Coast, one of the state's last national frontiers, crab fishermen are coming in with only a tenth of their catch of five years ago, while real estate and land developers fill in and destroy hundreds of acres of fertile marsh areas, the Army Corps of Engineers is planning to cut new waterways, and industry pours poisonous wastes down once wild rivers into the Gulf.

Batches of mackerel caught in Pacific Ocean waters off central California last year contained so much DDT that they were impounded by federal health officials as unfit for human consumption, while in the sea off a southern coast, scientists have found miles-long slicks containing pesticide levels 10,000 times higher than surrounding waters.

"If only I could get the majority of Americans under the surface of the sea to witness what's going on," says Dr. Rimmon C. Fay, a collector of marine specimens who has been diving in the Pacific off Los Angeles for years. When he turns over rocks now in that undersea wasteland caused by sewage and industrial pollution, he finds "it's foul and putrid underneath".

Throughout history we've believed that at the sea's edge man's power to destroy stopped and nature's invincibility began. In her 1951 book *The Sea Around Us*, even Rachel Carson saw the oceans as one last haven, safe forever. How could it be otherwise, when the oceans are so vast the continents are just islands in their midst, so deep a Mount Everest could be lost beneath their surface, so powerful their waves have tossed a 2600-ton breakwater around like a cork? How does one pollute the volume of the sea, 350 million cubic miles? How does one poison an environment so rich it harbors 200,000 species of life?

Yet last year Stanford University ecologist Paul Ehrlich projected the end of all important life in the sea by 1979, and the probable end of the human species shortly thereafter, in a grim scenario based on current trends. I've talked to Dr. Ehrlich and other ecologists since, and there is no disagreement among them that the oceans are on the way to destruction. The only issue is when. Some scientists say that it will take perhaps 50 years at the present rate.

The vulnerability of the marine environment becomes dramatically clear when we realize that even though the oceans blanket three-fourths of the earth, their productivity is mostly limited to the rich waters over the continental shelves, narrow bands of undersea lands extending from our coastlines. Eighty percent of the world's saltwater fish catch is taken from these shallow coastal waters that make up only a tiny fraction of the total sea area. In addition, almost 70 percent of all usable fish and shellfish spend a crucial part of their lives in the estuaries—the coastal bays, wetlands and river mouths—that are 20 times more fertile than the open sea, seven times more productive than a wheatfield.

Cut the chain of life in the coastal marshes and bays, destroy the myriad bottom organisms and pollute the waters above the continental shelves, and inevitably we will eliminate the great ocean fisheries that are vital in feeding an exploding world population.

Pollution or overfishing, and sometimes both, have gouged fisheries around the world. Several bottom fish species off the Pacific Northwest have been virtually exhausted by Russian fleets with factory ships that take the bounty home all canned and labeled. The once-mammoth sardine fishery off California is now gone. The croaker, a popular food fish, has virtually disappeared from much of its native East Coast waters. Off New York, fish are becoming afflicted with a strange disease that rots away fins and tails, and in dirty Pacific waters off Southern California, fish are being found with high rates of deformities and disease.

THE HIGH PRICE OF PROGRESS

Today our accelerated exploitation of the marine environment in the name of "progress" at any price is aimed directly at the continental shelf and its coastal resources, the tiny Achilles Heel of the sea. In our greedy rush to create more land, vital United States coastal wetlands are being dredged and filled for highways, industry, bridges, waterfront homes—to the tune of almost 900 square miles in 20 years. In spite of scientists' warnings, this continues at an accelerating pace from Galveston to Chesapeake Bay. Meanwhile, our remaining estuaries are fed 30 billion gallons of sewage and industrial wastes every day, poisoning fish, choking out oyster and clam beds, and rendering the bays and wetlands unfit for almost any use.

While the vise tightens on the critical inshore areas that lace our coastlines, the pressure builds on the ocean itself. More and more, the continental shelf waters and beyond are a tempting dumping ground for our garbage, especially for those cities and industries looking for a new way to ease the burden of the national cleanup push on inland waters.

In 1968 alone, 37 million tons of solid wastes were dumped in ocean waters off the United States. The wastes—taken out to sea by barge and ship—include garbage and trash, waste oil, dredging spoils, industrial acids, caustics, cleaners, sludges and waste liquor, airplane parts, junked automobiles, spoiled food, and even radioactive materials. During his papyrus boat trip in the Atlantic last year, author-explorer Thor Heyerdahl sighted plastic bottles, squeeze tubes, oil and other trash that had somehow been swept on the currents to mid-ocean.

One big new proposal calls for piping the concentrated wastes of up to 50 industries in the Delaware River Valley more than 80 miles out to sea. But Dr. Howard Sanders of the Woods Hole Oceanographic Institute in Massachusetts says wastes could wreak even more havoc on low tolerance life in the ancient.

almost unvarying environment of the deep sea than in a little stream in our backyard.

LOOSE DUMPING REGULATIONS

Regulations on ocean dumping and other activities are so loose now that it amounts to every-man-for-himself on the high seas. A chief regulator, the United States Army Corps of Engineers, recently confirmed that it didn't even know how many ocean-dumping permits it has issued. And "letters of permission" handed out by the Corps for dumping more than three miles off our coasts are, the agency admits, "really an acknowledgment that anyone can do anything they please when outside our jurisdiction."

As yet, no one really knows who has what rights and responsibilities in the ocean environment, and state, federal and international jurisdictions remain in their historically chaotic tangle. The origin of national sovereignty over the first three miles of sea bed was the range of a cannon shot in the 17th Century.

Perhaps more than any other problem, the dramatic, sudden oil-well blowouts in the sea and the oil tanker breakups have begun to awaken us to the total inadequacy of our present ocean policies. The list of places where oil has blackened beaches, killed untold thousands of birds, and posed lingering threats to marine animal and plant life already includes many of the great recreational areas of this nation and the world: Florida, the Gulf Coast, New England, New Jersey, Puerto Rico, Southern California, southern England.

What famous coastline will be next? According to a report last year by the President's Panel on Oil Spills, we can expect a Santa Barbara-scale disaster every year by 1980 if present trends continue. Yet in a shocking invitation for trouble, we will be drilling 3,000 to 5,000 new undersea oil wells worldwide each year by 1980, even as the experts confirm we do not possess the technology to contain the oil from ocean disasters. And oil-carrying tankers are being built to monumental scales, cutting transportation costs but increasing the risks of gigantic spills.

How many more oil spills like the one in the Santa Barbara Channel and the break-up of *Torrey Canyon* off England will it take before all nations realize the human race is now so populous and generates so much waste that we can no longer treat the environment as if it were created for our limitless plunder?

Radioactivity from nuclear fallout can be found in any 50-gallon sample of water taken anywhere in the sea. Investigators of a massive die-off of sea birds off Britain last year found unusually high counts of toxic industrial chemicals used in making paints and plastics. Because of the use of toxic, persistent pesticides worldwide, species of sea birds such as the brown pelican have been pushed to the brink of extinction over large portions of their ranges, and there is evidence these poisons can attack phytoplankton, a food fundamental in the chain of ocean life.

Ironically, while we continue the gruesome process of polluting the sea, we are laying big new hopes on ocean space for everything from floating jetports to housing developments. The conclusion is unavoidable. If tough, intelligent action is not taken now, we will make the same wreckage of the oceans as we have of the land and of our sprawling, decaying cities. There will be more reckless exploitation, user conflicts, gigantic oil spills and other environmental disasters, and the ultimate destruction of marine life.

And the greatest losers of all will be the people of America and the world—the hundreds of millions of people to whom the coastlines and the sea mean recreation, or a home, or a livelihood, or peace and inspiration, or—because of the food provided for whole nations by the great fisheries—survival itself. Destroy this vital frontier, and in effect we will be slamming the door on, our last chance for a livable world and for a decent future for generations to come.

STEPS TO SURVIVAL

The day is already tragically late, but there is still reason to hope. As astronaut Neil Armstrong expressed, "We citizens of earth, who can solve the problems of leaving earth, can also solve the problems of staying on it." But make no mistake, it is going to be a tremendous task. Turning back the massive assault on the sea and meeting our other staggering environmental problems will mean dramatic modifications in our present policies and priorities, including, at the very least, the following three steps:

1. We must end, by 1975, all dumping of wastes into the sea, the Great Lakes and the coastal areas of our rivers and bays, except for liquid wastes treated at least to levels equal to the natural quality of the ocean waters.

Rather than using the sea as a last-ditch catchall for our wastes, our only rational choice now is to put our sophisticated technology to work finding ways to recycle our wastes back into the economy as useful new products. As Dr. Athelstan Spilhaus, president of the American Association for the Advancement of Science, said, "We are running out of an 'away' to throw things away."

2. We must prohibit any new activity—from building offshore jetports to the drilling of additional oil wells—until we set tough, new controls to avoid the chaos and destruction in the sea that is everywhere apparent on the land.

And for once the public must be fully informed and consulted at every step in decisions on whether cities are built off our coasts, whether a new sea horizon is created with the paraphernalia of marine industry, whether huge new supertankers whose wrecks could smear whole coastlines with oil will be allowed.

We should never have permitted oil drilling anywhere under the sea until we understood and could control the dangers. Stricter enforcement of regulations for offshore oil wells is not a sufficient answer. Now, the only logical course is to halt all drilling in ecologically sensitive areas—such as the Santa Barbara Channel—and to prohibit new drilling anywhere, until there is convincing evidence it will not harm the marine environment, and until we have the technology to contain oil spills. Until we know more, all our untapped oil and mineral deposits under federal jurisdiction in the sea should be held unexploited in a National Marine Resources Trust, which should be established immediately.

3. We must halt the reckless dredging and filling of priceless wetlands and the carving up of ocean front in the name of "progress".

Faced with a coastal environment crisis, Maryland, Massachusetts and the San Francisco Bay area, among others, have taken first steps toward outlawing the "right to destroy" that has in effect been claimed by private interest lobbies, and set new standards to protect remaining wetlands.

Curtailing these long-standing practices is not easy. But the framework for these desperately needed new national standards could—and should—be taken in this session of Congress. The Marine Environment and Pollution Control Act which I introduced earlier this year would do this. Under its provisions, the Secretary of the Interior would take on major new responsibilities to protect that part of the ocean environment under his jurisdiction, at the same time setting a model which the states could well follow in their own parts of the seabed. This kind of legislation would be only a beginning in saving our oceans.

These "environmental quality" policies will be adopted only when the majority of Americans demand them in a sustained political action drive at every level of this society. There will be action in the public interest only when the land developers, the oil interests, Congress and local governments know the public means business. Citizens must take a stand now for their friend, the sea. They must use every device within the political process to see that it is protected.

Finally, all nations must together establish an International Policy on the Sea that sacrifices narrow self-interests for the protection of this vast domain that is a common heritage of all mankind. It is a challenge that will test our intelligence as a species, but a task of highest priority for the future of the human species. We must acknowledge our interdependence with all of nature, including the sea, rejecting the prevailing philosophy of Western civilization that man can dominate the planet while ignoring the works and forces of nature. For as Thoreau said: "What is the use of a house if you haven't got a tolerable planet to put it on?"

MILLIONS DONATED TO FIGHT MUSCULAR DYSTROPHY

Mr. GRIFFIN. Mr. President, Americans all across the land this week demonstrated anew that generosity is one of the hallmarks of a great people.

It is reported that the annual Jerry Lewis Labor Day telethon for the Muscular Dystrophy Associations of America brought a record of nearly $5.1 million in pledged contributions.

The program, featuring the well-known entertainer Jerry Lewis and numerous other celebrities, was carried by 65 television stations and lasted for 20 hours.

The telethon began at 9:30 p.m. Sunday and ran continuously until 5:30 p.m. Monday.

It is particularly gratifying to this Senator to know that Detroit Station WKBD–TV, Channel 50, was part of that network.

WKBD–TV's participation in the telethon meant more than $265,000 in pledged contributions to fight muscular dystrophy. The station reported receiving more pledges from more than 42,000 people.

Furthermore, I understand that the total amount raised by the Detroit station made the Metropolitan Detroit region the second largest fund raising region in the Nation.

Mr. President, I wish to commend all the broadcasters who participated in this important campaign, and in particular I wish to pay tribute to station WKBD–TV, its performers, its management and staff personnel who gave so unselfishly of their time and talent for this worthy cause.

ENVIRONMENTAL AGENDA

Mr. MONDALE. Mr. President, last January 19, the first day of the second session of the 91st Congress, the Senator from Wisconsin (Mr. NELSON) delivered a Magna Carta speech on the Senate floor proposing an environmental agenda for the Nation in this decade.

Not content to merely make speeches about it, he went on to introduce 20 measures to implement the environmental agenda, staking out for Congress the tough, uncompromising positions that must be taken if we are to put a halt to the nationwide and worldwide assault on man's environment.

It is a legislative package of truly broad scope, reflecting the insight and dedication of a man who clearly recognizes the complex challenges facing America as the Nation moves into the last third of the 20th century. In the 8 months since that speech, 10 of the 20 Nelson environmental agenda measures have either been enacted, their provisions incorporated into other legislation, or hearings held—dramatic evidence of an awakening national environmental conscience and a tribute to the Wisconsin Senator, who has done so much to awaken that conscience.

In an excellent article recently, the Christian Science Monitor, which does a thorough job of covering environmental issues, makes reference to the progress of Senator NELSON'S environmental agenda. I ask unanimous consent that it be printed in the RECORD at the end of these remarks.

Further, I think it worth while to point out the specific environmental achievements of the Senator from Wisconsin thus far in this Congress. He has been a leader in the fight for a clean automobile, for action to stop the pollution of the Great Lakes and the oceans; for protection of Everglades National Park; in the effort to eliminate DDT, control other hard pesticides, and stop environmental warfare with herbicides in Vietnam; and in the effort to stop the social and environmental disruption by our massive highway system.

And Senator NELSON was the originator of the National Earth Day idea—proposing it in a September 20, 1969, speech before the Washington State Environmental Council—and was instrumental in bringing it to reality in teachins, conferences, and in seminars last April 22 involving 2,500 colleges and universities, 10,000 high schools and grade schools and an additional 2,000 communities.

Action resulting from Senator NELSON'S environmental agenda includes the following:

Senate subcommittee inclusion of provisions of three Nelson amendments to end pollution from the automobile by 1975;

Congressional action to guarantee from a competing Corps of Engineers project the water supply crucial to the survival of Everglades National Park;

An amendment to the Water Quality Improvement Act, now signed into law, which will lead to the establishment of State-by-State standards to halt pesticide pollution of our lakes and rivers and will improve the means of nonchemical pest control;

Senate passage and House consideration of the Apostle Islands National Lakeshore, proposed by Senator NELSON;

Senate passage and probably congressional enactment of Nelson legislation to add three Lake Michigan islands to the national wilderness system;

Senate committee hearings on a Nelson bill which sets forth a new Federal program to cut massive erosion along our streams, rivers and highways;

Senate hearings and probable congressional enactment of Nelson legislation, the Environmental Quality Education Act, to vastly upgrade national efforts to educate students at all levels regarding the environment and its problems;

Senate committee hearings on the Marine Environment and Pollution Control Act introduced by Senator NELSON which would stop cities, industries, and others from dumping solid wastes into the Great Lakes and the sea and would institute comprehensive environmental management plans for our ocean resources;

Senate committee hearings on Senator NELSON'S Detergent Pollution Control Act which would ban phosphorus in detergents by June 30, 1972, and set national pollution control standards on all detergent ingredients;

Inclusion in a Senate-passed bill now in Senate-House conference of several provisions in Nelson legislation designed to establish economic penalties on "throwaway" packaging and require return, reuse, and recycling of such consumer containers;

Senate committee hearings on the future of the highway aid program, at which Senator NELSON testified on his proposal to make highway trust fund moneys available for mass transit systems in our Nation's congested cities;

Senate committee hearings and probable committee action on a Nelson bill to assure opportunities for employment and training to the unemployed in needed public services such as health service jobs, family planning, transportation, public safety, education, pollution, rural development, and conservation and beautification.

Federal-State requirements to end the pollution of Lake Superior by an iron ore processing company and other sources, the result of a pollution control conference called at Senator NELSON'S urging, and continued cleanup action by a similar Lake Michigan conference also called at Senator NELSON'S suggestion.

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

CONGRESS TOYS WITH NIXON LEGISLATION

(By Peter C. Stuart)

WASHINGTON.—"It is now or never," President Nixon declared in February when handing Congress his environmental program.

Today, nearly six months later, his program is quietly drifting from "now" toward "never."

None of the President's seven major bills has been enacted into law. The House of Representatives has passed two—cracking down on air polluters and broadening research on waste disposal. The Senate has adopted none.

The House hasn't even held committee hearings—the very first legislative step—on four of the bills, including all three clean-water measures. The Senate has held no hearings on one bill (to acquire more parklands).

One bill in each house (the waste bill in the Senate and the parks bill in the House) has awaited floor action longer than a month.

IMPATIENCE GROWING

The snail's pace of the Nixon environmental program is arousing impatience within the administration. So far it hasn't boiled into public—but it may.

Persons keeping tabs on the presidential package, inside and outside the administration, lay the sluggishness to two factors:

The bills themselves are truly major. "The Nixon bills," conceded an aide of one leading environmental Democrat in the Senate, "are broad-gauged, setting whole new directions."

Thus they require longer for Congress to scrutinize—and also loom as bolder targets for critics.

"Sometimes the overall view gets lost in nit-picking," an administration source complained.

"Shorter steps often come easier. About the same time the President submitted his program, Sen. Gaylord A. Nelson (D) of Wisconsin introduced his own package of 20 briefer, more-specific environmental bills. Today fully 10 of them either have been enacted, their concepts incorporated into other legislation, or hearings completed.

Environmental politics. Most of the Nixon bills in the Senate (six out of seven) wound up in the pollution subcommittee chaired by Sen. Edmund S. Muskie (D) of Maine—the President's chief rival for environmental leadership and a likely challenger for the White House in 1972.

"It isn't that Muskie is mistreating the President's bills," explained one Capitol Hill environmentalist. "But both men have written bills covering the same areas. In most cases, in fact, Muskie has proposed and the President has responded."

Senator Muskie's involvement may account for the differing approaches of the Senate and the House.

HOUSE MORE PASSIVE

The House seems content to ratify Mr. Nixon's recommendations, or even weaken them, as when watering down his clean-air provisions on fuels and additives.

But the Senate, in committee at least, is inclined to outdo the President. A tougher waste-disposal bill emerged last month from committee, soon to be followed by air and water pollution measures also expected to outstrip the President's.

Both the White House and congressional critics stoutly deny partisanship. "The environment is no place for open political warfare," an administration spokesman said. But it's there, unavoidably.

So is lobbying. "There's a lot of lobbying going on," one of the executive legislative liaisons admitted, in a massive understatement. The clean-air bill alone has mobilized two of the most powerful lobbies in town—the automobile and petroleum industries.

With so many intangibles at work, few close to the Nixon program will predict how much of it is likely to survive the hectic closing months of the congressional session. Administration sources are uniformly pessimistic—except for one important consideration.

"This," said one, speaking of environmental protection, "is not a good issue for Congress to leave undealt with in an election year."

DAIRY IMPORT PROTEST TO TARIFF COMMISSION

Mr. MOSS. Mr. President, the U.S. dairy industry has been seriously hurt in the past years by a tide of ingeniously designed foreign products which have

come into this country as "dairy equivalents."

Technically, they are not dairy products, but in actuality they are—although they are so designed and constituted that they can be imported outside of the dairy quotas.

I recently protested these technical evasions to the U.S. Tariff Commission. I ask unanimous consent that my statement be printed in the RECORD.

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

DAIRY IMPORT PROTEST TO TARIFF COMMISSION

Until 1966 dairy imports had been maintained at modest levels. In that year foreign exporters began their successful efforts to design products which technically were outside of dairy quotas but which closely resembled products under quota. These were new products—ones which had not been known in the trade to that time, bearing such unique names as Junex.

Sensing these technical evasions President Johnson directed the Tariff Commission to investigate these products in 1967. Following this investigation and report President Johnson on June 20 imposed quotas on the products which had accounted for 95 per cent of the import increase during the preceding year and a half. At that time he said "On a basis of these new quotas, annual imports will be approximately one billion pounds of milk equivalent." The emphasis is mine; it is done to show an intended policy of level of dairy imports.

Unfortunately President Johnson had not reckoned with the ingenuity of foreign exporters to the United States. New evasions were found and further investigations were required by your commission in 1968. By that time dairy imports were running closer to two billion pounds of milk equivalent than the anticipated one billion pound figure of President Johnson. A further Presidential proclamation was issued on January 6, 1969.

Again, ingenious ways of evading the quotas were found. Cheeses which were intended to sell under 47 cents a pound were priced through various means (kickbacks, dehydrating, etc.) over that figure. Ice cream mix was called ice cream. Swiss cheese from New Zealand was called Monterey.

As a result, once again a President, this time President Nixon, had to call on the Tariff Commission for further investigation, abetted by a call for an investigation of other products by the Ways and Means Committee.

As a result we find that there have had to be three investigations by the Tariff Commission called by Presidential proclamation since 1967. Hardly were the results of the previous two announced than new evasions occurred. Is there any reason to assume that the same will not occur after the commission makes its recommendations following these hearings?

What I am really leading up to with this background is not the suggestion that either President Johnson or President Nixon have not proceeded in good faith in dairy imports or that the Tariff Commission has failed to perform its duties within the framework prescribed for it. Rather it is to suggest that our entire system of quotas on dairy products—handling them commodity by commodity—is wrong. Recent history shows that this approach simply is not doing what was intended. If it was, then the Tariff Commission would not again be having hearings now, so soon after their previous actions.

It is recognized that the Tariff Commission is limited in what it can recommend as an immediate practical remedy. It, for example, can only recommend on those products for which the hearings have been called. Obviously it must also recommend within the framework of present law. But I would like to urge them in the views which are expressed by the Commission members subsequent to this hearing to go beyond that. I would urge them to give us long-term recommendations on how national objectives of approximately one billion pounds of milk equivalent, stated by agricultural spokesmen of both the last Democratic and the present Republican administration, can best be achieved without the continuous patchwork of having to hold new hearings to counter the newly thought-up evasions every year or two.

Speaking as one United States Senator I would welcome the views of the members of the Tariff Commission in this respect.

MESSAGE FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Leonard, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. GRAVEL) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations received today, see the end of Senate proceedings.)

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

Mr. BAYH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the unfinished business.

The ACTING PRESIDENT pro tempore. The bill will be stated by title.

The assistant legislative clerk read as follows: A joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the joint resolution.

Mr. BAKER. Mr. President, yesterday I indicated that I would have further and additional remarks on the pending bill, to explain and amplify my reasons for supporting it.

I believe the most fundamental of those reasons, and the most fundamental of all American rights, is the right to equality.

The ACTING PRESIDENT pro tempore. The Senate will be in order. The Senator from Tennessee may proceed.

Mr. BAKER. Equality is the first of the self-evident rights set out by Thomas Jefferson in the Declaration of Independence. The ideal inscribed in stone above the entrance to the Supreme Court of the United States is "Equal Justice Under Law".

Strict equality is an ideal and, therefore, unachievable. At times in our sprawling history it has even been the policy of governments explicitly to deny equality. But steadily through the progress of our history as a people we have sought and confronted and tried to eliminate all bars to equality.

In the landmark case of Baker against Carr, which was first brought in my native State of Tennessee, the Supreme Court established decisively the principal that one man is entitled to one vote, no more, no less.

The pending issue in the Senate today is no more complex than this: does two-thirds of the membership of this body believe that the principle of complete equality should be extended to each citizen of this country in the election of the President and the Vice President of the United States.

There are those who argue that it is too complicated, too risky, too uncertain to extend equal voting rights to all franchised Americans. I cannot agree. It is true that the proposed constitutional amendment is not foolproof and that it raises important questions of implementation. But the Congress can—by statute—resolve these matters after ratification of the amendment. The paramount issue, the single issue that cannot be sacrificed on the altar of any expedient or technicality, is the fundamental right of every citizen to cast a vote that has no more weight nor no less weight than that of any other citizen.

The electoral college may well have served a purpose in sprawling, uneducated, postcolonial America. But all of that has changed. Geography should not elect Presidents; States should not elect Presidents; people should elect Presidents.

There are those who argue that the big city States will lose in influence if the electoral college is abolished. It has been pointed out that under a direct election system a man could be elected President without winning a single vote in 39 States. Others argue that, on the contrary, it is the smaller States that will lose if the direct election system is adopted. Neither case is readily demonstrable, and such arguments pale in significance when compared with the basic issue of equality.

One of the most undesirable aspects of the existing electoral vote system is the so-called unit rule, under which the winner takes all. A presidential candidate who wins a plurality in any State wins all of the electoral votes of that State.

Mr. CURTIS. Mr. President, will the distinguished Senator yield for a question?

Mr. BAKER. I am happy to yield to my distinguished colleague from Nebraska.

Mr. CURTIS. On the subject of equality of individuals' voting rights, would the distinguished Senator tell us, in con-

nection with the election of what officials did that case arise?

Mr. BAKER. The Baker against Carr case, as the distinguished Senator from Nebraska knows, was filed by a group of citizens against the Secretary of State of the State of Tennessee, alleging that there was a malapportionment of the representation in the State legislature of my State.

The point of the matter in these remarks, however, is that Baker against Carr has become a landmark decision, an innovative decision of the highest tribunal in this country establishing the basic principle of equality. It is not directly applicable, obviously, to the electoral college, because the provision for the electoral college is imbedded in the Constitution itself, and Baker against Carr was a holding to the effect that the Constitution itself required that there be equality of representation and that there be equality of the right to vote.

Mr. CURTIS. Did the element enter into it that the plaintiffs in the suit maintained that the constitution of the Soverign State of Tennessee was not being adhered to?

Mr. BAKER. There were arguments pro and con in Baker against Carr at the three-judge level and then through the appellate stages in the several briefs and the amicus curiae briefs filed in the course of the proceedings, to the effect that the basic nature of federalism required that the State be permitted to apportion one or both of the houses of its legislature on some basis other than population, and that the constitution of Tennessee so provided.

The court, in effect, at least by inference, held that notwithstanding any provision of the Tennessee constitution, there could not be an abrogation of the guarantee of equal representation by the Federal Constitution.

Mr. CURTIS. I am interested in the distinguished Senator's attitude toward the election of U.S. Senators. It is quite apparent that a voter in the State of Wyoming or Alaska has a greater proportionate voice in selecting U.S. Senators than one in the State of California. My question is this: Would the Senator carry his argument for equality of voting power, if that is the proper term, to the selection of U.S. Senators?

Mr. BAKER. My answer is "yes" to the distinguished Senator from Nebraska, but I think not for the purpose he intends, if he will permit me to expand and elaborate a little further.

Mr. CURTIS. I will be happy to have the Senator do so.

Mr. BAKER. I believe that the Senate of the United States and the election of the Members of this body is the personification of one-man, one-vote under the constitutional mandate of the United States of America. I made that remark when I was engaged in debate with the distinguished senior Senator from North Carolina when we were debating a one-man, one-vote issue in a proposed constitutional amendment by the late Senator Dirksen to overturn the effect of Baker against Carr. The distinguished senior Senator from North Carolina energetically disagreed, pointing out, as I think the Senator from Nebraska points out, that the vote of one citizen in Wyoming counts for a great deal more in electing one Member of this body than does, say, the vote of one citizen and one voter of California, New York, or Tennessee. That is quite true. But bear in mind that the Constitution provides for two Members of the Senate of the United States from each State, that every citizen of that State votes for both of those Senators, and that every citizen's vote counts for precisely as much as every other citizen's in that State. The fact that it does not count as much as it does in New York or in California is not in derogation of the validity of one-man, one-vote, as it applies to the Senate of the United States but, rather, the design for federalism built into the Constitution itself.

Many say that the Senate of the United States and the electoral college are the only two institutionalized elements of national federalism remaining in the United States. I disagree. Clearly, the Senate represents the fruits of the great compromise that led to the ratification of the Constitution of the United States. The compromise was in the form of a bicameral legislative department, with the House of Representatives representing all the citizens of this country on a direct, equal basis and the Senate of the United States representing them on a direct State federation basis.

The electoral college was designed and created, if we examine the notes and commentary on the deliberations of the constitutional convention, almost as an afterthought, long after the so-called great compromise was effected. The electoral college, in my humble judgment, does not represent a testimony to the great compromise; because when we examine it carefully, we find that not only did it come long after—and, in my view, as an afterthought, almost—but also, it provided for election of the President by the House of Representatives, and the House of Representatives is the one-man, one-vote body in the great compromise.

If we examine the rationale of the electoral college and the deliberations that led to it, we find that the electoral college was to serve, in effect, as a nominating committee to select distinguished and qualified citizens of this country who would be nominated to be President, five of whom would be submitted to the House of Representatives, and from that list the House of Representatives, its membership elector on a strict one-man, one-vote basis, would choose the President of the United States.

I believe that there is ample justification now for transferring the one-man, one-vote relationship away from the vicarious function of the House of Representatives directly to the people, especially, as I said yesterday, in this age of instantaneous communications through the electronic media and almost instantaneous transportation by airplane and otherwise.

The very nature of federalism has changed. We are closer to being a Nation-State than we ever have been. But the fact that I would propose to transfer this one-man, one-vote function of electing the President from the vicarious function of the House of Representatives directly to the people in no way implies that I would destroy the symbol of federalism which is the Senate of the United States.

Mr. CURTIS. So the Senator is for this doctrine, the absolute equality of voting power for every citizen, having that implemented into everything except the election of U.S. Senators. Is that correct?

Mr. BAKER. No. I believe, as a matter of fact, as I said earlier in these remarks, that the Senate of the United States and the process by which we now elect Senators of the United States is the embodiment and personification of absolute perfection of one-man, one-vote. Taking the basic requirement for federalism—that is, that each State have two representatives in this body—we then proceed to this question: Does each citizen of that State have the same voting power as every other citizen? The answer is: "Yes." Every citizen in Tennessee, more than a million of them, who voted in the election of 1966, in which I was engaged, had precisely the same voting power as every other citizen, regardless of their geographical location in my State, the color of their skin, their age, or anything else. So long as they were permitted to vote, they had absolute equality of that vote. But, unfortunately, that is not the case in the election of the President of the United States.

Mr. CURTIS. What was the total vote in the State of Tennessee?

Mr. BAKER. We had approximately a million votes.

Mr. CURTIS. We have approximately one-half million in my State, so everybody who goes to the polls has one-half millionth of the authority to name a U.S. Senator in the State of Nebraska. In the State of Tennessee, it is cut in half. Each voter has one-millionth of the voting power. Is that equal?

Mr. BAKER. Of course, it is equal. It is equal because each State is entitled to two Senators, and every vote in Nebraska counts the same as every other vote. That is not the same as the election to the House of Representatives, where, until recently, in Nebraska and Tennessee and in every other State of the Union, single member districts were not of the same size and there was a vast disparity in the effectiveness of a single vote of a Member of the House of Representatives. But we are comparing apples and oranges when we compare the House and the Senate in this respect, in the examination of one man, one vote.

I feel, as does the Senator from Nebraska, that this Republic has flourished and has prospered and has endured in large part because we have adhered to the Federal system, which is the product of the great compromise. I do not propose to destroy that compromise. That is

why I insist that the Senate and the House be selected on a different basis—both, however, selected on the basis of equality of the vote. I do suggest, however, that there is gross inequality in the selection of the President because of the electoral system which originally was conceived to be, in effect, a nominating committee, and the function of electing the President was to be performed by the House of Representatives, which theoretically, was to be chosen on a one-man, one-vote basis. I want now to transfer that vicarious function of the House of Representatives to the people. I believe that we can safely do so, and it does not have a thing on earth to do with continuing, nurturing, and protecting the symbol of federalism which is embedded in the Senate of the United States.

Mr. CURTIS. I contend, however, that the federalism is part and parcel of our electing of a President.

Mr. BAKER. And I agree.

Mr. CURTIS. And it will no longer be so if this measure prevails. The same forces that are today arguing for the passage of this proposal, if they are to be consistent, will have to carry that so-called reform into the election of U.S. Senators. The mere fact that some textbook writer has said that the procedure provided in the Constitution for the election of a President was sort of an afterthought does not make it so.

As a lawyer, the Senator knows that it is an established principle that words are intended to mean what they say, exactly what they say. One need not go back to resurrect something else, although sometimes it is helpful.

The fact remains that they provided for the selection of a President just as they provided for Congress a blend between equal voting power of the States and voting power based upon the number of people involved. I do not think it was an accident. I think that the manner of deciding a contest as well as binding the electors or doing away with the electors and using the electoral vote can be modernized to meet our present situation.

Does not the Senator agree that to destroy the basic fabric that provides that the vote shall be counted similar to the way the Senate is constituted and the way the House is constituted is a mistake?

Mr. BAKER. No; as a matter of fact, I feel that direct election is essential, if we are to meet the challenge that will confront the country in the years just ahead, because the President and the Vice President, as the Senator from Nebraska knows, are the only two elected officials who are not elected by popular vote. They are the only two who are not elected by equality of vote at the Federal level, if the mandate of the Supreme Court is to be carried out.

Mr. CURTIS. We were never elected that way. We were elected by the States, because there are two pillars, one the Senate, which gives recognition to the States; the other, the House, recognizing the States as having Representatives chosen proportionally by the people. They are the two pillars of federalism. The Senator from Tennessee wants to tear down one; I say that the other will follow.

Mr. BAKER. The President of the United States is, in my judgment, the President of all the people, not the President of 50 States. The President, throughout the fabric of the Constitution, the minutes, and the commentary on the convention leading to the framing of the Constitution itself, and in the body of the statute law, is reflected to be the chief magistrate of the people of the United States of America, the people of this country.

Mr. CURTIS. No, no; the States. He is the President of the United States.

Mr. BAKER. It seems to me that there is no conscionable basis on which one can say that in the selection of the highest elected officer, the highest officer in the United States, the people of one State should have an advantage over the people of another State. If equality of representation is not stated to be the fundamental purpose of democratic government, then there is something about the nature of federalism which I believe we should examine a little further, because federalism, in the view of the junior Senator from Tennessee, does not represent discrimination by favoring one group over another.

Federalism as a generic term does not imply an advantage by one group over another. Federalism means a group of 50 States united for their mutual self-interest and for the creation and functioning of a central government. That is federalism, and that element of federalism is protected, nourished, and perpetuated by the daily functions of the U.S. Senate. It does not require that the voters of New York City have a greater voice in selecting the President than the voters of Omaha, Nebr. That is precisely the case now, according to the arguments of some.

I come from a Southern State. I come from a fairly small State. Scholars and observers argue effectively that Tennessee has an advantage in the electoral college system and also that Tennessee has a disadvantage under the electoral college system. My reply to both of those arguments is, if it is clear there is an advantage or a disadvantage, that is proof positive that the electoral college system should be abolished, because Tennessee should not have one whit more or one whit less influence than any other region or section of the country.

If we do not start with the basic premise of equality in the selection of a President, in the selection of the House of Representatives, and in the selection of the Senate—which we do now have and have always had in the Senate—then we end up with a premise that does not, in my view, constitute a part of federalism. That is inequality. There is no relationship between federalism and discrimination.

Mr. CURTIS. My learned friend has been most generous in yielding to me, so at this point I will ask him just one more question. He stated he would transfer the functions of the House of Representatives to the people themselves. I take it he could only be referring to deciding a contest for President because that is the only place the House gets into it.

My question is simple: When would the Senator hold that runoff election?

Mr. BAKER. Whenever the Senate and the House of Representatives decided it should be held.

Mr. CURTIS. Well, I do not think that is a responsive answer. The Senator is proposing a plan for machinery to elect a President of the United States. In considering that plan, we not only have a right but a duty to inquire as to how it would work out. I do not believe it is responsive to the question for anyone to say that Congress will decide it later, because they may decide and change their minds many times. But it is incumbent upon the proponents of this amendment to give us an idea of their estimate, after their proposal is adopted and implemented, as to how long it will take to carry it out, in case we have to have a contest.

Mr. BAKER. My reply to that may not be judged responsive and, if that is so, it is unfortunately but necessarily so. My reply to that is that Senate Joint Resolution 1, which is the pending business, which is the proposed amendment to the Constitution to provide for the direct election of the President, which is the piece of legislation that my distinguished colleague from Nebraska and I are discussing now, provides for the direct election of the President and would abolish the electoral college. It is intentionally silent on the implementing features of that plan. Congress can clearly and Congress can obviously provide for the time to conduct a runoff if a runoff is held. That is in the best traditions of representative government. We should imbed in the permanency of the Constitution the requirement for the direct election of the President, but we should not fix in concrete a statutory requirement as to when a runoff election should be held, or how.

Mr. CURTIS. I believe my distinguished friend from Tennessee fails to understand that I am not suggesting we amend his proposal and put in a specific date. I am merely saying that no one can properly weigh the Senator's proposition, which clearly calls for a runoff election, unless some idea is brought into it as to the timing of it and how it would work.

Mr. BAKER. Might I ask my friend from Nebraska to suggest a time? He has the same vote that I have in this body. If the resolution is silent on it, and if it is adopted, he will have the same force and freedom to suggest that I will.

Mr. CURTIS. I am not proposing that we have a runoff election in this space age. I believe that would be an act like Rip Van Winkle.

Mr. BAKER. Let me ask the Senator if he would support the direct popular election of the President if there were no runoff provision.

Mr. CURTIS. I could forget direct election a lot easier.

Mr. BAKER. Would the Senator support it?

Mr. CURTIS. No. I would not, because it violates the very federalism the distinguished Senator has talked about.

Mr. BAKER. Is the Senator really concerned about whether——

Mr. CURTIS. Very much so—very much so——

Mr. BAKER. We have a runoff election for President?

Mr. CURTIS. Very much so. This resolution may pass. It may pass. It may be ratified. I believe that what the Senator has in it for a runoff is a very great error. I criticize no one. But I hope the proposal will frankly discuss the mechanics and the timing of carrying out a runoff, and how, so that we do not buy a pig in a poke. I have a good hunch why it is not being discussed.

Mr. BAKER. Well, if I can reply to that, I can say that it is not being discussed by me because I do not presume to tell the Senate or Congress how they should implement it. I do not intend to try to impose my ideas on the amendment, at this time, before the Senate has decided on the principle.

Did I correctly understand the Senator from Nebraska yesterday to say, at the opening of his colloquy with the Senator from Indiana, that he would agree to almost anything before he would agree to the popular vote?

Mr. CURTIS. Yes.

Mr. BAKER. Well, would the Senator from Nebraska tell me what he would agree to——

Mr. CURTIS. All right——

Mr. BAKER. In order to make the popular vote acceptable?

Mr. CURTIS. In order to make the popular vote acceptable?

Mr. BAKER. Yes.

Mr. CURTIS. No. I am against the popular vote.

Mr. BAKER. There is no way, then, that the popular vote for President could be made acceptable to the Senator from Nebraska?

Mr. CURTIS. My opinion is this: That one of the problems raised and discussed everywhere following the last election concerned the threat of Governor Wallace, which involved two things; one, the possible assertion by an elector of the right to vote contrary to the way the people in his State voted. That can be corrected. We can still keep the electoral counting system. The other point was, what about the mechanics for making a decision in a contested election? The Constitution now provides that each State shall have one vote, which gives Alaska and New York the same vote in deciding a contest. I do not think, in this day and age, that can be defended.

Mr. BAKER. Why not, if I may ask the Senator from Nebraska?

Mr. CURTIS. Because it is unfair.

Mr. BAKER. Because it is discriminatory?

Mr. CURTIS. No, no——

Mr. BAKER. It gives less than one-man, one-vote in the selection of a President, then?

Mr. CURTIS. That less than one-man, one-vote statement, and "discriminatory"—they are just catch words.

Mr. BAKER. Not on the basis——

Mr. CURTIS. Let me finish, please. The Senator asked me what I would support. I would support meeting the two problems uppermost in the minds of the American people. I do not think that the erroneous philosophy, in my opinion—and I condemn no one—that would destroy federalism and change the basic way of counting the vote is at all necessary to meet those two problems.

Mr. BAKER. Mr. President, the Senator from Nebraska thinks that the selection of a President in the case of a tie by the House of Representatives on the basis of 50 votes—that is, one vote for each State—could not be defended, which is what I understood him to say a moment ago. Is the reason it cannot be defended because it gives an unconscionable advantage to one State over another in the selection of the President?

Mr. CURTIS. No. It does not blend the two components of the selection of a President. I would suggest that Congress meet in joint session and each Senator and each Representative have one vote. That would carry out the basic principle of federalism.

Mr. BAKER. And it would dilute the inequality, the unconscionable advantage.

Mr. CURTIS. I do not think it is an unconscionable advantage any more than one could argue that "*x*" number of people could elect 50 Senators to control the Senate.

Mr. BAKER. Mr. President, would the Senator agree, regardless of whether we call it an unconscionable advantage or a better blending of federalism, that one vote per Member of the House and Senate in joint session is a better way to select a President in the event of a tie?

Mr. CURTIS. Yes. I think it conforms to the concept of electing a President.

Mr. BAKER. Would the Senator agree that that diminishes the relative advantages of small States over large States?

Mr. CURTIS. Yes.

Mr. BAKER. Would the Senator agree further that if we pursue that logic, the only way we provide equality for every voter, as distinguished from every State, is to provide for direct election of the President, as Senate Joint Resolution 1 would do?

Mr. CURTIS. No.

Mr. BAKER. How else might it be done?

Mr. CURTIS. Mr. President, in the first place I do not agree that that is a sound premise. We cannot accept that and hang on to federalism. Furthermore, we are asked not to vote on theories and not according to the Gallup poll. It is fine to read the Gallup poll. But I think we should read the amendment. It is a prescription for chaos.

Mr. BAKER. Mr. President, in my own State of Tennessee for many years the voters were ignored by the National Democratic Party because they were in the bag. At the same time, the voters in Tennessee were ignored by the National Republican Party because they were a lost cause.

The same has been true in other States and regions of the Nation, often with the positions of the national parties reversed.

In his book, "The People's President," Neal R. Peirce writes that Lawrence F. O'Brien recalled that:

> In the final week of the 1960 campaign, Kennedy and his managers decided to cancel a planned overnight tour of Indiana because they had decided that Nixon would carry the State and its electoral votes anyway.

Mr. Peirce quotes O'Brien as saying that, "We might have gone through with" the Indiana trip if there had been a direct popular election.

Mr. President, I believe that one-party control of any State or region of this country is demonstrably bad. I believe that it promotes the attitude of the national parties toward the South or Southeast to which I have just alluded—that is, one taking it for granted and the other writing it off as hopeless.

I think the competition of two broad-based national parties is part of the fabric of the success of the self-governing experiment of the United States of America. Two broad-based national parties, each able to—indeed, anxious to—accommodate a wide variety of viewpoints, ideas, and ideologies and to meld them together into a single voice of the majority on any given election day perform an invaluable function in the self-governing process.

I think that any region, any State, or for that matter any congressional district, county, or township that is dominated by one party for very long is deprived of some of the advantages of this keen, broad-based, two-party competition. I think it is in the essence of democratic government that we are required by the very nature of the two-party system to have a decent respect for the differing opinions of our compatriots and to come together to form an effective voice of public unison on election day.

It is interesting to me that in examining the deliberations of the Constitutional Convention, while our Founding Fathers in their considerable wisdom created this tripartite form of government with partial and overlapping jurisdiction between the legislative, executive, and judiciary, and while they spelled out in considerable detail the relationship of these bodies, they made no reference to how the people of the United States would communicate with that Government that was designed for them.

There is no reference at all in the Constitution, in the amendments to it, or the Declaration of Independence—or, for that matter, in the body of statute law—of a requirement for a national party of any type—Republican, Democratic, American or otherwise. There certainly is no requirement for two-party competition, much less two broad-based national parties, each embracing conservatives and liberals, and bringing them together with attenuating and moderating force so that they provide an effective governmental instrumentality.

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

Mr. BAKER. I yield.

Mr. BAYH. Mr. President, I think the Senator from Tennessee has eloquently expressed the goals for which we are striving in this effort to change the Presidential election system.

The whole matter of equality, which I hope to debate and pursue in a little more detail when the Senator from Nebraska returns to the Chamber, has been an indispensable ingredient to any fair, meaningful electoral process.

In the 20th century, a direct popular vote is the only means by which this can be obtained.

The present system has an effect on the two-party system, as the Senator from Tennessee and I both observed yesterday. The best way to strengthen the two-party system, and not to allow it to proliferate, is to see that each party worker at the precinct level, where the foundation of the party structure is built, knows that all the votes in his precinct will count.

That is a point that the Senator from Tennessee has made and indeed I salute him for it. But more recently he has touched on another point that I think it is important to stress.

I do not suppose there was ever a more wise or more far-sighted band of souls than those that met in Philadelphia to draft the Constitution. They had great wisdom. The fact that our Nation stands today is testimony of that wisdom. But that wisdom was not infinite.

Perhaps the best example of the small chink in this otherwise strong armor was their conception of the election of the President.

The distinguished Senator from Nebraska and others who beat on their chests and call on the memory of our founding fathers to sustain the electoral college position today ignore what the distinguished Senator from Tennessee pointed out, that the system will not work today the way our founding fathers anticipated that it would.

They did not anticipate that there would be parties. As a result, almost before the ink was dry on the original ratification of the Constitution, we needed the 12th amendment which made an important change in the way we elect a President, as the Senator from Tennessee knows.

Also, as he pointed out repeatedly, the original election was not supposed to be an election at all, but a means by which electors could be chosen to nominate. It was supposed to be an election for the choice of convention delegates.

Mr. BAKER. If I may interrupt the Senator at that point, I think that is precisely correct. That is the closest our Founding Fathers came to providing for an election system. They provided for electors for the Presidency, to be elected by the House of Representatives.

I said yesterday that while we are dealing with one aspect of electoral reform now, and that is the abolition of the electoral college and providing for the direct election of the President, I feel we must soon come to the requirement that we fine tune the rest of the electoral system. I believe the national election system by both the Democratic Party and the Republican Party should be changed by Federal statute so that there is the election of delegates to those conventions by popular vote. That has no bearing on the direct election of the President, but I say it only to emphasize my agreement with the Senator and not to elicit support for my proposal. As the Senator knows, I have introduced legislation on this point, along with legislation on transient voting and the 18-year-old vote. But if we are to meet the challenge, we must fine tune the election process so that this representative democracy of ours does resonate accurately and fully against the demands, desires, and dissents of all the people we govern.

Mr. BAYH. I share the concern of the Senator from Tennessee. If the Senator will yield further, I know of no better area where we in this body at this particular moment in history can, by our deeds and votes, as well as our voices, show that our system does have the ability to be responsive.

I can think of no more basic and fundamental change than that suggested by the Senator from Tennessee. The whole area of the electoral process is ground zero as far as our democracy is concerned.

I think we have to give far more attention than we are giving to the modernization of the electoral process. A good first step, which the Senator from Tennessee is pursuing this morning is to see that the people of this country have equal power to say who will be the most powerful official in this land and in the world. They do not have that equality of power under the present archaic and antiquated process.

Mr. BAKER. The Senator from Indiana, in his typically fine way, has pinpointed the difficulty with our present system and the necessity for reform. I agree with him that it is urgently necessary that we take this step today. The other steps I outlined might be postponed. They might even be changed, or modified, or not adopted at all. I believe representative democracy would still be responsive enough in the foreseeable future to accomplish our purposes. But I have some real fear about the future of the responsiveness of our democratic institution if we do not do our utmost to provide absolute equality of opportunity for every citizen in the selection of the President and Vice President. Whether the occupant of the White House is Republican or Democrat, we in the Senate, to a greater or lesser degree, depending on which side of the aisle we reside on and the side of the aisle with which the President is identified, are concerned about the increasing concentration of power in the President and the executive bureaucracy.

I thought at one time we might early take steps to diminish the growth and proliferation of the executive authority and the bureaucratic autonomy. I believe it is nearly autonomous now. But I have decided we have to do it in a little different way. We will have to control the bureaucracy by making sure the President is responsible in a maximum way to the people themselves.

It was said to me by a friend in Tennessee recently, a friend who is not engaged in politics, and judging from his statement probably never will be, that he thought the bureaucracy in Washington was nameless, faceless, controlled by no one, least of all the President and Congress; that it was autonomous and its purpose was self-perpetuation. He said if he were President he would abolish every position below GS–16 and start over like Andrew Jackson. Mr. President, you cannot do that and I do not propose that. But one of the fundamental problems in the Central Government of the United States is that it tends to grow so large and unwieldy that it becomes increasingly brittle and less responsive, and that, lacking a better approach to it, the way to provide against its encroachment on freedom and to bring it under control and conform it to serve its function is to provide that the head of the bureaucracy, the head of the pyramid, the President of the United States, is keenly attuned to the times and the people. You do that by providing maximum equality in representation.

Throughout this debate I intend to reiterate that there are two fundamental things involved in the direct election of the President. One is the nature of federalism, as pointed out by the distinguished junior Senator from Nebraska, and the other is equality. It is my contention that the nature of federalism does not require the electoral college but that equality does require its abolition.

Mr. BAYH. Mr. President, the Senator from Nebraska has returned to the Chamber. If the Senator from Tennessee will yield I would like to comment on a point raised in the colloquy between the Senator from Nebraska and the Senator from Tennessee.

Mr. BAKER. I yield.

Mr. BAYH. We, in this body, of course, are governed by rules of the Senate as well as by our own consciences and normally by a certain amount of—perhaps I should say an abnormal amount—patience and tolerance of one another. I am sure that throughout this debate, in the finest tradition of the Senate, each Member will try to pursue what he, in his own heart, thinks is right.

The Senator from Nebraska opposes direct election of the President as strongly as the Senator from Indiana supports it.

But I think we ought to look at some of the emphasis of the Senator from Nebraska, and I certainly intend to remind the Senate of this periodically. If he wants us to leave the major thrust of the reform, equality of influence at the ballot box; if he wants us to pass over the fact that the people of this country do not vote now for the President and Vice President, and that we need to eliminate the wall of independent electors who can disregard the will of their constituents which has been erected between elected officials and the people; or if he wants to disregard the fact that the present system has in the past denied the presidency to the person getting the most votes in the election, it is the right of the Senator from Nebraska to do that. But if we are going to leave these three basic things and go back to a discussion of the runoff provision, then let us at least remember what the Senator from Nebraska said yesterday. He said that he would do almost anything to keep direct election from passing.

Mr. CURTIS. Will the Senator point

out those words, that I would "do almost anything"?

Mr. BAYH. I was standing here when he said them and I heard them. I repeated them and asked whether the Senator would "bring the country to its knees"? The Senator said, "Of course not."

I am not being critical of the Senator from Nebraska. He is within his right. I am sure he would not want to depart from the decorum and normally accepted procedure. But I must say, in my judgment, that the Senator from Nebraska is trying to lead the Senate astray and to divert its attention from the most important point by getting it tied up on something that is almost insignificant.

I would like to buttress that opinion by pointing out, as I did yesterday, that the language in Senate Joint Resolution 1 is not foreign to the Constitution. This is not something we have dreamed up to try to interject now. I say, with all respect to my colleague from Nebraska, that if he will look at section 4 of article I of the present Constitution, he will find the following language:

> The time, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the legislature thereof; but the Congress may at any time by law make or alter such regulations . . .

This shows that under the present Constitution the Congress has flexibility to move in and make regulations if necessary. I see no reason why we should not reasonably anticipate and expect the same flexibility in the election of the President.

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

Mr. BAYH. I know the Senator from Nebraska does not share that view, but I must say I do not feel the runoff provision, which troubles the Senator from Nebraska, is nearly as important as three or four other items which I just mentioned.

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

Mr. BAYH. I yield.

Mr. CURTIS. The Senator's answers are evasive. The words just read in section 4 of course are found in the present Constitution. I find no fault with them. But in section 3 there is a new departure, a provision for two elections in certain situations. And it is not irrelevant to raise the question, When would the second election occur?

I am not suggesting that the Senator write it in here. I am suggesting that that is pertinent information that the Senate and the country are entitled to know in deciding whether or not section 3 is a proposal that ought to be adopted or rejected.

Mr. BAYH. The Senator from Indiana discussed this whole point with the Senator from Nebraska yesterday. In the event that perhaps the Senator from Nebraska did not hear what the Senator from Indiana said, the idea that the runoff provision is something new, as the Senator from Nebraska seems to suggest, that it is foreign to our electoral process, it seems to me, if I may say with all respect, is dead wrong.

Mr. CURTIS. The runoff is used——

Mr. BAYH. Let me finish, please. Let me point out that the runoff is used in Alabama, Arkansas, Florida, and Georgia, among others. As I said yesterday, I think Congress, after adoption of the amendment, needs to study their experiences. We need to call on our colleagues from Alabama, which requires 4 weeks between the two elections, from Arkansas, which requires 2 weeks, from Florida, which requires 3 weeks, from Georgia, which requires 2 weeks, from Louisiana, which requires 6 weeks, from Mississippi, which requires 3 weeks, from North Carolina, which requires 4 weeks, from Oklahoma, which requires a similar period, from Rhode Island, which requires 4 weeks, from South Carolina, which requires 2 weeks, from Texas, which requires 4 weeks, and on our colleagues from Virginia, which requires 5 weeks.

I think those runoffs are "in the ball park," if I may say so. They involve a reasonable length of time. I am not wedded to any particular time. My judgment would be that 2 or 3 weeks would be sufficient, just as I said in response to the question raised yesterday by the Senator from Nebraska.

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

Mr. BAYH. I yield.

Mr. CURTIS. I know a long list of States that use runoffs in their nominating process. Would the distinguished Senator from Indiana read into the RECORD the States that use runoff in those elections?

Mr. BAYH. I do not know of any State that does, but I think if it works in the nominating process, and it does, then it can work in the final election. It works in other countries. Are we so sterile and devoid of inventiveness and foresight that our people cannot devise some sort of mechanical scheme that gives the people some right to choose their President?

Mr. CURTIS. They have all through the years.

Mr. BAYH. Oh, no; no citizen has ever voted for the President.

Mr. CURTIS. Oh, yes.

Mr. BAYH. Can the Senator point out one example where the people have voted for the President and Vice President?

Mr. CURTIS. They do right along in Nebraska.

Mr. BAYH. I beg to dispute the statement of the Senator from Nebraska.

Mr. CURTIS. The Senator asked me a question. They go to the polls, are handed a ballot, and vote for the President. The names of the electors do not appear. That is done in accordance with the Constitution. It is done in many States.

Mr. BAKER. I thank my colleagues for this colloquy. I have another question to address to the Senator from Nebraska, but before I do so, I would like to say I, too, am not certain about the runoff provision. I would prefer to have none. However, I think, as a practical matter, this resolution having passed the House of Representatives overwhelmingly and coming to the Senate as a substitute for the Senate measure, as it does, the possibility that it might be adopted by the Senate and sent to the President without conference is a strong consideration.

But my question to the Senator from Nebraska is, Is that really the matter that concerns him and puts him in opposition to direct election of the President?

Mr. CURTIS. It is one. I have a basic conviction that to cease electing the President by counting the votes on the basis of the States would be a departure from federalism. I have a further deep feeling that, if I am overruled, and we do depart from our present system of counting the votes and go to a direct election, the provisions written in the joint resolution for a runoff are filled with dangers.

I agree with that very distinguished writer, Dr. Theodore White, who describes this proposal as an invitation to chaos. I cannot imagine holding an election that takes a few weeks to certify the results from the States, and takes awhile longer to send those results to Washington, and then we have a situation that requires a runoff, and the candidates and parties are entitled to some notice, ballots have to be printed, proclamations have to go out in the State for the elections, and finally the election is held, and then they can be counted. In this fast-moving space age, I do not think that is a wise course for our country.

While I think that provision is full of dangers, that is only part of my objections to it. I think the basic thrust of the amendment destroys the federal system.

Mr. BAKER. If we eliminate the provision for runoff, the Senator from Nebraska would still not be for the amendment?

Mr. CURTIS. Oh, no, because it is a departure from federalism.

Mr. BAYH. Mr. President, I would like the RECORD to be corrected, and ask unanimous consent that it be corrected, to show that I answered the question of the Senator from Nebraska about runoff too hastily. There are, indeed, four States that have runoff provisions in the final election.

So runoffs are not foreign to our electoral process in this country, either at the primary or the final level. And I would also go one step further, and say that, although the Senator from Nebraska feels that the citizens of Nebraska vote for President, the fact of the matter is that they do not. They vote for electors. When we accepted Dr. Bailey's vote right here on this floor in January of 1969, we, in essence, said that any of those electors of Nebraska can ignore totally and completely what the constituents of Nebraska suggest they do. The electors can vote for someone else, who may not even have been a candidate in the first place. That has, in fact, happened. The people of North Carolina——

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

Mr. BAYH. I think the Senator from Nebraska had mentioned this, but let me just ask him, as a distinguished and illustrious member of the opposition party, the Grand Old Party, how would he feel if he were a Republican voter in North Carolina—or in Nebraska, as far as that is concerned, and the only way he could

vote for the present occupant of the White House, President Nixon, was to go in and vote for the Republican electors. The only way those electors could be chosen was to be chosen by the Republican Party. Yet all of those who voted for Richard Milhous Nixon in the Second Congressional District of North Carolina in 1968 saw the man they chose vote for George Wallace. How can the Senator say that the people of the Second District of North Carolina, or the people of Nebraska, actually vote for the President?

Mr. CURTIS. My distinguished friend is citing one problem that could be easily met by an amendment to do away with the right of an elector to vote contrary to the way his constituents vote. That can be done. We could also deal with the other problems involved. I do not believe that it would be wise, in meeting those problems, about which there is no debate, to depart to a procedure such as this.

We cannot have direct election and allow one State to set qualifications for voters that are different than those in another State. We cannot have the States be in charge of voter registration, if it is a national election, because they no longer vote as States. We are moving away from local government, and that is where liberty is.

Mr. BAKER. Mr. President, may I ask the Senator from Nebraska if it is true that while he contends that we might take care of all of the defects in the electoral college system, as I understood him to say——

Mr. CURTIS. That is correct.

Mr. BAKER. Is it not really true that we could take care of all of them but one, and that is to make sure that every man's vote counts the same?

Mr. CURTIS. That is not a defect.

Mr. BAKER. It is to me.

Mr. CURTIS. But the Senator would not vote against protecting his seat in the Senate. The Senator said, "Oh, no, let us not go that far." But yet a tiny minority of the voters in the United States can elect 51 Senators, and the Senate is an entity just as the Presidency is an entity.

So I say it will not be long; if this nefarious, ill-conceived, unsound, ridiculous proposal should ever find its way into our Constitution, do not worry, the time will come when four or five States will each have a fifth of a Senator, instead of two.

Mr. BAKER. I do not believe that would happen. Of course, my crystal ball is no brighter, no clearer, and no less cracked than that of the Senator from Nebraska; but I believe the principles of federalism are also embodied in this branch of the Government, and besides that, I will take my chances.

Mr. CURTIS. Of course, the Senator from Tennessee is above average in intelligence and flexibility, and he can defend having one rule of fairness for the election of the President and another for the election of Senators. But he will not always be so certain.

Mr. BAYH. Mr. President, it is interesting to the Senator from Indiana that our friend from Nebraska suggests that if we go to the direct popular vote, there is something dramatically wrong about letting the States have as much control as is possible over the registration and other matters that we discussed in some detail yesterday. But the Senator ignores the fact that they do that now. They do it in choosing all of us here as Senators; and they do it now since the electors who go in to vote for President are the product of the electorate in each State. They are chosen and qualified by State law. I think we could do that for the President.

Mr. CURTIS. Mr. President, will the Senator yield at that point?

Mr. BAYH. With the deference of the Senator from Tennessee, I yield.

Mr. CURTIS. The vote is counted within the State, so that when the States decide what the qualifications are for voters, how they shall register, and how the votes shall be counted, they are deciding how to do something where the votes are tabulated and the winner declared within the State. No State would permit subdivisions to determine the qualifications of voters in a statewide election, because that would give rise to the opportunities for an area with certain particular leanings to either restrict or enlarge its number of voters. I say it is just as ridiculous to suggest that we could have a national tote board to determine who is President, and count the votes nationally, and let subdivisions of the Nation determine the qualifications of voters, as they would in the States for elections within the States.

Mr. BAKER. I thank my friend from Nebraska for those comments, which cast the Senator from Nebraska in the role of seeking to destroy federalism and deprive the States of their rights to determine the qualifications of their electors as they wish, and puts us in the position of wanting to see the United States in the position of a homogeneous——

Mr. CURTIS. Mr. President, I ask the Senator to yield at that point, because he is putting the Senator from Nebraska in a false light.

Mr. BAKER. I shall be glad to yield to the Senator in a moment.

As the Senator from Nebraska knows, this proposal for the abolition of the electoral college is entirely silent on how the individual citizen voters will be required to vote, on what day, or in what manner. It is implicit in Senate Joint Resolution 1, as now written, that Congress may make additional provisions to carry out its purposes. So far as I am concerned, I would assume it would be better to let each of the 50 States decide how they want to qualify their citizens to vote, how they want to canvass those votes within their States, and how they want to certify the result to the U.S. Government, the same as they certified my election returns and those of the Senator from Nebraska. But clearly, the Senator from Nebraska sees it in a different light.

Looking at his crystal ball, he proposes, instead, that we have "a national tote board"—I believe I quote him correctly—and he relegates the sovereign States in this federation to subdivisions of the Nation. He talks about an adding machine tape, and what he describes, as far as I am concerned, is a great national election rather than a certification of the results from the 50 States. Under Senate Joint Resolution 1, the Senator's view and mine can both be submitted to the Senate. His would represent the abolition of federalism, and mine would represent the perpetuation. Is that a proper role for the Senator from Nebraska to take?

Mr. CURTIS. I have not taken any such role.

Mr. BAKER. I believe the Senator has.

Mr. CURTIS. No. I said if we adopt this procedure, these things will follow. At no time have I ever said that the States should not go on determining the qualifications of voters. I have made no such proposal at all.

Mr. BAKER. Did the Senator say he thought if we passed this, we would have to have a national registration of voters?

Mr. CURTIS. I think we will.

Mr. BAKER. Does not the Senator imply that the States cannot do it? I do not believe that, but is not that the Senator's view?

Mr. CURTIS. I think we would be making such a vast change in our Government that we would destroy many things that mean a great deal to the States.

Mr. BAKER. With all due deference to the Senator from Nebraska——

Mr. CURTIS. The fact that I likened, not what I propose, but I likened the results of what the Senator proposes to a situation within the States, where they might permit subdivisions to determine the qualifications of voters is applicable; because what is proposed here—and I do not think anyone denies it—is that we take all the votes cast all over the United States, add them up somewhere nationally, and determine who wins. I wish the Senator could explain to me how that could be done fairly, without having the same rules applied in every State. That is my point. I do not want to destroy any of these things. I think the Senator's proposal would.

Mr. BAKER. Mr. President, with all due deference to the Senator from Nebraska, I suggest that it is not Senate Joint Resolution 1 that creates the specter of the destruction of federalism but, rather, his glimpse and preview of what he would do by statute to implement the provisions of Senate Joint Resolution 1 if he were left to his choice. There is no provision in Senate Joint Resolution 1 for any national tote board. It would be just as appropriate, and the Senator from Tennessee would prefer, that each of the 50 States prescribe its own method for the qualification of voters of each State, provide its own method for the counting, tabulation, and certification of votes, and that each of the 50 States, therefore, retain its indentifiable, efficient indexes of federalism.

If we were to adopt a different plan by statute, after the ratification of Senate Joint Resolution 1, as suggested, as I understand, by the distinguished Senator from Nebraska, then we would be in trouble. I would oppose the provisions that the Senator from Nebraska now claims he is concerned with, and I hope he would, too.

Mr. CURTIS. I have not suggested those things. I have not said that I would support them. I pointed them out as dangers that would follow if this constitutional amendment is adopted.

Mr. BAKER. I wonder whether the Senator would agree that it is probably within the scope and authority of Congress now, since the Voting Rights Act of 1970 was adopted, to provide for uniform standards for voters around the country.

Mr. CURTIS. As to what—age?

Mr. BAKER. As to anything.

Mr. CURTIS. I voted against the provision for 18-year-olds to vote on the basis that I did not think so. We will have to wait to see what the Court says.

Mr. BAKER. The Senator from Tennessee has long favored and sponsored a constitutional amendment to provide for the right to vote for 18-year-olds, and I voted for that bill with the hope that the judiciary would decide whether or not, under the equal protection clause of the Constitution, Congress had that authority. If the Court upholds it, then I think the fear that the Senator expresses already exists, and it is a fear of ourselves; because if we have that authority, we can do now what the Senator concerns himself with in regard to Senate Joint Resolution 1.

Mr. President, I thank the Senator from Nebraska and the Senator from Indiana for their most useful and most enlightened colloquy in this adversary debate on the desirability of the passage of this resolution.

As a relatively junior Member of this body, I am bold enough to volunteer that I think some of the best work in this Chamber is done when energetic debate precedes the final disposition of a measure, and there is no more energetic debater than the distinguished junior Senator from Nebraska.

Before we began our colloquy, I was speaking of the—to me—odious consequences of one-party domination of any region or section of the Nation. I had expressed considerable affection, respect, and admiration for the genesis of the American two-party system which exists nowhere else in the world in this format—not two broad-based national parties as distinguished from specialized parties, such as conservative or liberal, labor or something else. But two broad-based national parties exist in this format nowhere else in the world. I think it has served the United States extraordinarily well. But I think that this examination of the fundamentals of this fourth department of government, which is the way I characterize our two broad-based national parties, is appropriate to another development of our times, another political development, and that is the so-called Southern strategy.

Mr. President, it comes as no surprise to my colleagues in this body and not many voters in Tennessee when I say that I am an ardent Republican and that I do, indeed, hope that the Republican Party, for a change, has a Southern strategy—not a strategy just for the South, but a strategy that, for a change, includes the South. I hope the Democratic Party does, too. I hope the Democratic Party does not take the South for granted and that the Republican Party does not ignore it.

I hope that the mistakes of one-party domination of the last 50 years—indeed, in many States since the Civil War, the last 100 years—will not be repeated in the 1970's and the 1980's. So I hope that both our parties do have a strategy that includes the South, because the South, as the East, the North, and the West, must be a part of the mainstream of the political life of this Republic if we are to govern effectively.

I think that the abolition of the electoral college and the direct election of the President will do much to preserve our two-party system throughout the Nation and to guard against the recurrence of one-party domination in any part of the Nation.

I believe that one-party control of any State in any region of the country where it is found is directly attributable to the electoral vote system. I believe that the institution of the direct popular election of the President and Vice President will lead to the end of one-party control wherever it is found.

There has been much talk recently of a so-called southern strategy being pursued by the national Republican Party. Let me say again that I hope the Republican Party strategy does include the South and the Southeast as a part of this Nation in its general planning, just as I hope the Democratic Party does, too.

It is no secret that the Democratic Party has had the South "locked up" for years. I hope that both of the two great national parties will develop strategies that include all regions of the country; because, like it or not, this country is becoming homogenized so far as its people are concerned. Southerners are less Southern, northerners are less Northern, and easterners and westerners are less discernibly different. The country is becoming more the same, and I think it is good, but it produces the necessity for change; it is time now to fine-tune the electoral process, and the first step is the abolition of the electoral college.

At the bottom of the domination by one party or the other of a particular region is the understanding that the winner takes all under the present system and that it is not important to one party or the other that they compete in a presidential election for the 10 percent, 20 percent, or 30 percent of the votes they may gain in Louisiana or Alabama, on the one hand, or in Nebraska, Maine, or Vermont, on the other hand. It would be important that we have the direct popular election of the President, and every citizen not only would have the same strength to vote, but also, every citizen would have the same dignity and the same standing in importance in relation to his peers and equals, numbering almost 200 million in this country.

Mr. President, the proposal now before the Senate is not a technical legislative issue. What is at issue is the idea of equality. I am from a relatively small State. I am from a relatively southern State. But I do not believe that the vote of a citizen of my great State should count for less than the vote of a citizen of the State of Montana. I do not believe that the vote of a citizen of my State should be counted more than the vote of a citizen of the State of Illinois or California.

The great federal compromise made in Philadelphia in 1787 was not the devising of the electoral college. The great compromise that guarantees the federal natures of our system was the decision to fashion a bicameral legislature. It is the fact that each State of the Union, regardless of its population, is entitled to two Senators that guarantees the continuing federal nature of our National Government, not the electoral college. The Presidency belongs to all the people, and to none more than any other.

Mr. President, the time is at hand when we must examine the necessities for the more efficient governing of this Nation. I think that in these times, in this nuclear age, in this time of swift communication and transportation, in the language of Lady Barbara Ward in her excellent book "Spaceship Earth," the "have nots" of the world are rapidly finding out how much the "haves" really have, and that there is not likely to be a single president, or a single king, a single chancellor, prime minister, or dictator who has the answers to all the problems that will confront civilization in this nuclear age—in this age of technological and scientific revolution.

Only the people, in their collective genius, are likely to find the answers that will be durable and workable, that will preserve us from mutual destruction and annihilation.

If that be the case, if only the people, in their collective genius, can identify the problems and formulate the solutions to the problems of today and tomorrow, then it is urgently important that we continually monitor this business of self-government, of representative government, because the people must be heard. The engine of government which was designed for them by our forefathers must respond, not adequately but well, to that full range of desires, demands, and dissents which represent the business of self-government.

Mr. ALLEN. Mr. President, will the Senator from Tennessee yield?

Mr. BAKER. I yield.

Mr. ALLEN. I have been listening with a great deal of interest to the learned and eloquent discussion by the distinguished senior Senator from Tennessee of the resolution under consideration. It was interesting to hear him say that he had some misgivings about the runoff provision contained in the resolution. It is noted, too, that two other cosponsors of the resolution, the distinguished Senator from Maryland (Mr. TYDINGS) and the distinguished Senator from Michigan (Mr. GRIFFIN), speak most critically of the 40-percent requirement.

Therefore, I am wondering and would like to ask the Senator from Tennessee whether he feels it is wise to make the runoff provision a part of the basic, fundamental law of the land, the Constitution of the United States. Would it not be possible merely to provide in the amendment that Congress have authority by law to provide for the direct election of the President, and is it necessary to provide the runoff provision in the amendment?

Mr. BAKER. I thank my colleague from Alabama. I may have been misunderstood in my expressed concern about

this. Although I stated earlier that I would prefer to have no runoff. My concern is actually with the 40-percent trigger of the runoff. I have some feeling that we should have a 50.1-percent requirement.

Mr. ALLEN. Requirement for what?

Mr. BAKER. For election.

Mr. ALLEN. In other words——

Mr. BAKER. That there should be a runoff, unless one of the candidates receives 50.1 percent. Thus, I am not concerned with the concept of the runoff embedded in the constitutional requirement as provided in Senate Joint Resolution 1. I am somewhat concerned with the 40-percent requirement. While the distinguished Senator from Indiana on yesterday pointed out that in the entire history of the Republic, only one President has been elected with less than 40 percent, that being Abraham Lincoln with 39.7 percent, I believe, there is still the possibility that we could elect a 40-percent President.

We are doing what I freely admit is radical surgery on the electoral process—that is, we would be doing it—with the enactment of Senate Joint Resolution 1. We do not do this sort of thing very often. This is the first time since the Constitution was drafted that there has been a serious prospect of changing this provision in this manner.

So, while we are at it, I believe, personally, that I would have preferred to go the whole mile and provide that there be a runoff unless there was 50.1 percent of the popular vote for a particular candidate. But I am persuaded that, under the circumstances, with such an overwhelming vote by the other body in favor of this resolution, in this manner, with the concern that it might totally eliminate certain third party efforts of candidates, that the 40-percent provision, in some views, is more desirable and at least in my view is acceptable. Thus, on that basis I came to terms with my own concern, while I do now freely confess that I would prefer to see a runoff, unless a candidate received 50.1 percent of the vote or more.

Mr. ALLEN. The Senator is concerned that there be no amendment of a basic nature to the resolution under consideration?

Mr. BAKER. Yes. I think the time is so important that we should adopt this resolution in this fashion with special reference to the overwhelming vote in the House of Representatives for the resolution in this form.

Mr. ALLEN. But the point the junior Senator from Alabama is seeking to make is, would it not be possible merely to provide in one sentence that Congress should have the authority by law to provide for the direct election of the President, and could not then legislation be agreed on at a later date that would possibly meet the views of the Senator from Tennessee?

Mr. BAKER. The point is very well taken. I do not dispute the attractiveness of the proposal of the Senator from Alabama. But I do not support it. I believe that we must pass this resolution in its present form and do so now in order to prevent going through the 1972 election with the same old system. But the Senator is entirely right, the arguments made by the Senator from Nebraska about the qualification of voters, about the time for the runoff, and the other provisions, that the States might set, if Congress does not, might very well apply to the percentage figures if a runoff is held at all. All I can do is express my personal preference. It is the personal preference of the junior Senator from Tennessee that Senate Joint Resolution 1 be passed in its present form without amendment.

Mr. ALLEN. The Senator stated that his preference would be that there be a runoff unless a candidate received more than 50.1 percent of the vote. That, then, would make a runoff much more likely and almost inevitable, would it not?

Mr. BAKER. I think it is not likely that it would be inevitable. I think it is certainly possible that runoffs would be more frequent. Once again, as the Senator from Indiana stated, we would not have had one runoff, save possibly one, and that was in the case of the first Lincoln election, when Lincoln's name was not on the ballot in 10 States.

Mr. ALLEN. Quite a number of winning candidates do not receive 50 percent of the votes.

Mr. BAKER. It is certain that if the requirement were 50.1 percent, there would have been runoffs. The junior Senator from Tennessee has no fear of runoffs. I do not think the runoff provision is a valid criticism of Senate Joint Resolution 1. I do not think there is anything in the electoral process of the United States that is inimical to a runoff vote that requires a candidate to receive 50 percent of the vote in order to be certified as President of the United States.

Mr. ALLEN. The Senator from Tennessee, then, does not share the fear of a runoff that is expressed by the Senator from Michigan (Mr. GRIFFIN) and the Senator from Maryland (Mr. TYDINGS), as set forth in the last two paragraphs on page 16 of the report of the Committee on the Judiciary?

Mr. BAKER. The Senator from Alabama is correct. As a matter of fact, my concern, I suppose, would be diametrically opposite to the concern expressed by the Senator from Maryland and the Senator from Michigan.

Mr. ALLEN. In other words, the Senator from Tennessee likes the provision for a runoff?

Mr. BAKER. It would be my personal preference—I do not serve on the Committee on the Judiciary, and I do not intend to offer an amendment—it would be my personal preference to have a runoff unless a candidate received more than 50.1 percent. That is not the form of the provision as passed by the House, and it is not the form as reported by the Senate Committee on the Judiciary. However, I am at ease with the provision in its present form, and I shall support it.

Mr. ALLEN. If the Senator from Tennessee would kindly permit the junior Senator from Alabama to do so, for the purpose of the RECORD, I should like to read the fear expressed by the two distinguished Senators, who are themselves cosponsors of the joint resolution, in which they say:

> On the other hand, under the 40-percent plurality required for direct election, a minor party or a combination of minor parties need only approach 20 percent of the popular vote in order to reach a strong bargaining position. The prospect of two minor party candidates, one regional and one ideological, amassing 20 percent of the vote is quite realistic in the near future of American politics.
>
> In view of this attractive political framework, the direct election plan, as embodied in Senate Joint Resolution 1, opens the door to public political bargaining with the most far-reaching consequences. Concessions wrung from major party candidates either before or after the first election would be made in a heated atmosphere conducive to the creation of public distrust. Given the fact that bargaining before the runoff election would take place under conditions of division and disappointment, cynical political moves might in themselves lead to a crisis of respect and legitimacy in the selection of the President. Undoubtedly, the aura of legitimacy would be all the more in doubt where the runner-up in the initial contest wins the runoff by wooing third-party support. In such a case, the question of legitimacy is sharpened even further if the turnout in the second election is substantially lower than in the first election.

The Senator from Tennessee does not share those fears?

Mr. BAKER. Mr. President, let me answer the Senator from Alabama a little more in detail than in a categorical reply.

I have great admiration for the junior Senator from Alabama. He has quickly shown his ability and quickness of mind and intellect in the debate on the floor. The point he puts is fundamental and important. I choose to answer it a little obliquely, and I think he will understand why when I finish.

The junior Senator from Tennessee has strong admiration for and dedication to the concept of two broad-based national parties, as he stated earlier, but the junior Senator from Tennessee does not believe that we have any right to legislate—from a practical standpoint—out of existence any effort of a third party.

Third parties now, in the past, or in the future will proliferate and exist and prosper or fail in my view in direct relationship to the effectiveness of the job that the two national political parties do in seeking out and determining the views of the people and translating them into effective policies for government.

Therefore, I feel it is important in designing an amendment to the Constitution or an implementing statute or any other provision that we accomplish two things—that we try our best, as I tend to put it, to fine tune the electoral process so that the people have absolute freedom and equality in expressing their viewpoints no matter how far out or traditional they might be, with absolute equality.

Then, I have the hope that the two national parties will be so stimulated by this equality of opportunity throughout the country—the South, North, East, and West—that they will be in effect forced to go out and understand what the people are concerned about.

My direct answer now, after that little

excursion, is that I do not share the concern that small parties or a third party might have undue influence by reason of the runoff provision and that that influence might be heightened in the runoff. I think if that is so that it is testimony in favor of the two national parties.

I do feel that the possibility would be lessened with the direct popular election of a President and would be far less destructive than the continuation of the electoral college system.

I also feel it is likely that the two national parties are going to become far more vigorous, far more responsible, and far more important in the business of self-government if they are out to compete for every vote, wherever it is, than they are under the winner-take-all system which undergirds the electoral system.

Mr. BAYH. Mr. President, will the Senator yield to permit me to continue this discussion with the Senator from Alabama?

Mr. BAKER. I yield.

Mr. BAYH. Mr. President, I appreciate the fact that the Senator from Alabama brought up this particular aspect of the runoff question.

I would like to recite a bit of history which I am sure is already familiar to the distinguished Senator from Alabama, not to be historical, but to put in proper perspective and better define the size of the obstacle before us.

Having been the principal author of the 25th amendment and as chairman of the Constitutional Amendments Subcommittee, I was right in the midst of the battle on that amendment. I think it is fair to say that it did not involve the degree of controversy that this matter involves.

We can go back to the death of President Harrison and to the time when President Garfield lay helpless for 81 days and could not do more than sign one document. We can go back to the time when President McKinley could not perform the duties of the President.

There was introduced in the Senate and in the House of Representatives at least one, and perhaps several different plans designed to deal with the problems of the President's inability to act. Each time the measure failed because we could not develop a consensus that would have the support of two-thirds of each House.

Passage only came when we were able to get the proper give and the take. Senator said he would give a little on his pet proposal, and another Senator said he would give a little on his pet proposal.

Without the tolerance and help of many Senators, we would not have been successful on the 25th amendment. I am sure that some Senators would have preferred a change or two in the final language of the 25th amendment.

However, it was because we were able to move toward the center and give up our personal preferences here and there that we were able to have the 25th amendment, which provides a course of action in the event of presidential disability.

I make this point to show that unless we realize the necessity of some give and take here, we will end up with the same problem in 1972 that we had in 1968. We will run the risk of malfunction again as we did on the three occasions when the President was elected with fewer votes than his opponent had.

With this thought in mind, the runoff is a matter of some concern to me. It is not of such concern that I do not believe it is the best proposal that has been presented. I realize that this is a tough vote and that we are close to the margin of the two-thirds required. No one is certain how some of his colleagues will vote. I have been tempted to accept a change, if I thought that giving up a sentence or two would pick up the necessary two or three additional votes.

But looking at it hard and fast, the Senator from Indiana has determined in his own mind that despite the weaknesses of the runoff, there are fewer weaknesses with the runoff than with the other proposals. The credibility of the final outcome and the acceptance by the greatest number of citizens in his State has persuaded the Senator from Indiana that the runoff is preferable to the alternatives. The Senator from Alabama has pointed out it is possible for a third party to get 20 percent. It should be pointed out that is the minimum required to prevent a winner if all other votes were evenly divided. I do not anticipate a runoff election with a great deal of relish. I think that everyone who has given support to the runoff provision would prefer to have a vote final, with one election.

But what happens if we get below 40 percent? Then, is the President presented with sufficient credentials so that he can govern efficiently? If he gets below 40 percent, perhaps his credibility is eroded and perhaps we should broaden that base. As the Senator from Tennessee said, who would have guessed that the minority party 2 years ago would be the party of the man who is now sitting in the White House?

Mr. BAKER. Who would have guessed in 1860 that a minority would soon become the dominant party?

Mr. BAYH. Exactly.

Mr. BAKER. As the Senator from Indiana said, we do our best to fine tune the system, but we do not leave out of the system the free choice of the small party to become a big party; and if two parties fail, another may emerge.

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

Mr. BAKER. I yield.

Mr. BAYH. I appreciate the Senator's tolerance. Does the Senator from Alabama wish to proceed?

Mr. ALLEN. I shall have a question or two after the Senator has completed his remarks.

Mr. BAYH. I do not wish to be so lengthy but I want to point out that unless each of us is willing to give and take a little, we will end up with no improvement in the present system, just as we were unable to get a consensus prior to the enactment of the 25th amendment.

The best way to broaden the base of support for the President if it gets below 40 percent, is to go back to the people and say, "Everyone has a second crack." Then the majority can say, "That man who is sending my son into battle, or who is enforcing pollution laws, or proposing highways has the support of the majority of the people." That is why I am convinced that the runoff is the best choice.

The Senator from Alabama struck a familiar chord and it is one which the Senator from Indiana is willing to consider. Given the runoff as the best proposal, I suppose it is fair to say none of us knows for certain how it is going to act. We might want to give ourselves the opportunity to change that if it malfunctions at some future date. This is the same type of proposal we used in one of the contingencies of the 25th amendment.

Would the Senator from Alabama feel inclined to support the direct election proposal if we could deal effectively this way with the runoff?

Mr. ALLEN. No. The Senator from Alabama would not support it. The Senator from Alabama was trying to find out why the resolution was drafted in these terms and the question the Senator from Alabama asked—I believe while the Senator from Indiana was out of the Chamber—was why does this resolution seek to put into the basic and fundamental law of the Nation, the Constitution of the United States, a portion of the procedure and leave out other important items of the procedure; and put in highly controversial items?

The Senator from Alabama asked the question, Would it not have been possible merely in one sentence to have said Congress shall be authorized to provide by law for the direct election of the President and Vice President of the United States, leaving to the Congress the decision of these matters that are very much in controversy at this time? Why go half way and spell out a portion of the controversial items and leave other controversial items unanswered? Why not go all the way or none of the way?

Mr. BAYH. Mr. President, with the permission of our distinguished colleague, I would like to continue the colloquy. Before doing so, I would like to express one word of appreciation to the Senator from Tennessee for the contribution he has made in his usual, eloquent manner, going into the intricacies of the problem involved. I think his support and explanation of the reason for his support will be of great help in the final consummation of this effort. I also would like to express my personal gratitude to the Senator from Tennessee.

The Senator from Alabama, I think, raises a very legitimate question as to why we should put part of the mechanism for a popular election into the bedrock law, the Constitution, thus making it more difficult to change, and not go all the way by putting in every dot, every comma, and every word of what I suppose may be called a national election code, as the senior Senator from Nebraska refers to it.

I think there is a great deal of similarity in dealing with presidential power, whether it is electing a President or deposing a President for disability, as provided in the 25th amendment. We asked ourselves those same questions when we

were dealing with the 25th amendment. Should we just authorize Congress to do certain things, particularly in relation to filling a vice-presidential vacancy, because such a person was just one heartbeat away from the presidency, or should we put it in the bedrock law of the land?

We decided at that time that the basic structure and framework should be put in the bedrock law of the land so that, given a close election, Congress would not be tempted to tamper with that formula and alter the result. For example, in a close election it is conceivable that future generations of representatives in this body—certainly not any here today, but perhaps future generations—would be tempted to go to a district plan that might reach a definite result, instead of going to a runoff with its uncertain result. Or, if we had a district plan, and permitted Congress the authority to change it by Congress, Congress could quickly reconvene, change it by statute, and have a different outcome.

Mr. ALLEN. Does the Senator mean after the election?

Mr. BAYH. After the election.

Mr. ALLEN. I think the Senator is drawing upon his fanciful imagination to come up with any such supposition as that.

Mr. BAYH. I am not. I ask the Senator from Alabama to search the depth of his memory, which is at least as good as the memory of the Senator from Indiana. In 1960 the State Legislature of Louisiana tried to change the outcome, knowing the way their electors were going to go.

I think we need to have as close to a final result as we can get and give to Congress the necessary authority. Of course, the Senator from Alabama is dealing with less than a final return on the first election. Suppose we had a 40-percent requirement and we had a 40-percent result. Then I do not think there will be any tampering at all. But suppose someone received less than 40 percent and Congress had power by law to establish an alternative procedure. I think, based on political tradition, the different party members would look at the formulas based on which might put their man in the White House. I do not think we want that to happen.

Mr. ALLEN. Why not put it all in the Constitution, then, and not stop half way?

Mr. BAYH. As far as the means of registration, qualifications, the infinite details of times and places are concerned, those decisions are made, and must by nature be made, prior to the election.

The votes are totaled, and once the votes are totaled I am not concerned about the qualifications of the voters who cast that vote, but I am concerned that we not give Congress the power to change the formula by which the vote, once cast, can be manipulated to reach a different conclusion.

Mr. ALLEN. I do not see the dangers at this point which the distinguished Senator from Indiana does.

Mr. BAYH. I would like to think that Congress would not resort to a purely political count such as we found in the election of 1876. That was a political count. Perhaps I do not know how it would have been done any better, but I do not think that was a shining moment in our history. I think we are inviting the possibility of another 1876 to the degree that we do not establish a final formula for deciding the outcome.

Mr. ALLEN. Why not spell the whole thing out in a constitutional provision? We have plenty of time. As the junior Senator from Alabama reads the joint resolution, it would have to be submitted by the Congress and ratified by three-fourths of the States by April 15 of next year in order for it to apply in the 1972 election. Since that is almost humanly impossible, it would seem that the first election that could be conducted according to the provisions of the suggested amendment would be the election of 1976.

So does not that fact give the distinguished Senator from Indiana and the cosponsors of the proposed constitutional amendment ample time to decide on the questions that have been raised by both distinguished Senators from Nebraska, having to do with to whom shall these votes be certified, who has the right to make the final certification, is there going to be a national election law, how shall contests to conducted, shall they be conducted at the State level or at the national level?

All those questions need to be answered at some time, and it occurs to the junior Senator from Alabama that if those questions are not answered at the time the amendment is submitted to the States, there will be so many hidden dangers in this procedure that it is going to make it very, very difficult indeed to obtain ratification by the requisite three-fourths of the State legislatures.

So there is plenty of time. Why not work on these matters at the next Congress and come up with a final, well-refined version, upon which the Senator can get two-thirds of the Members of both Houses of Congress to agree? What is the hurry?

Mr. BAYH. I do not share the feeling of the Senator from Alabama that we cannot get the necessary three-fourths of the legislatures to approve something so important. I must admit he is accurate in describing it as a monumental task, but I submit that the task is of such significant size that we should exert every effort toward accomplishing it.

This is not a measure which has been treated lightly, as I am sure my distinguished friend and colleague from Alabama realizes. In the past, these questions have been discussed by our colleagues in the House of Representatives, as well as heretofore in the Senate. The House passed this measure by a 339-to-70 vote. We have been laboring at this for a number of years. We have volumes of hearings dealing with these very questions.

I think it is incumbent upon us not to interchange a disagreement with the answers and suggestions that have been proposed with the fact that no answer has been forthcoming. I personally feel that the fact that we have used language from the Constitution as it now exists bodes well for the future of this present amendment.

I call the attention of my distinguished colleague to section 4 of article I of the Constitution, in which it says the times and places and manners of holding elections for Senators and Representatives shall be prescribed in each State by the legislature thereof, but that Congress may at any time by law make or alter such regulations.

I think the same thing is true as to the presidential electors. Some flexibility has been provided, and the primary responsibility has been given to the States.

I personally would rather see this responsibility accepted by the States. In the event they do not accept it, then I would like to see us have a stopgap, a safety valve, to permit Congress to go in and provide uniformity in these areas.

Mr. ALLEN. It occurs to me that the constitutional provision having to do with the election of Representatives and Senators is a regulation that would be applicable in the respective States, and that application would be insulated and contained within the particular States.

But are we going to have a national tabulating board, where all of the returns will be submitted to it, or is it going to be a composite of the returns in the 50 States? Who decides what is the vote in a particular State? Is that decided at the State level, or is it decided at the national level?

Mr. BAYH. As the Senator from Alabama knows, voting laws are not foreign to this body. We just got through enacting one. I think it is generally accepted, and it is the opinion of the Senator from Indiana, that following the ratification of this particular amendment, Congress would pass a statute in relation to these election prescribing what items of law should be national and what should be left to the States.

Mr. ALLEN. Yes, but should not that decision be made prior to sending this amendment out to the States? It is just like a comet; it stays out there for 7 years, as a comet stays out for 70. This amendment is out there, cutting off all possible electoral reform of a different nature. As long as it is out making its 7-year round among the States, we are not going to have any other type of electoral reform. Even though Congress, in its wisdom, should decide that this runoff provision that will be imbedded in the basic law of the land, according to the amendment of the Senator from Indiana, is not wise, and might want to go a different route, we would have this procedure set up in the proposed constitutional amendment, with half of the other questions still unanswered.

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

Mr. BAYH. I should like first to respond to the Senator from Alabama.

I think perhaps we would be putting the cart before the horse if we come up with a statute suggesting how a constitutional amendment should be administered before the constitutional amendment is even passed by Congress, let alone ratified by the States.

I think now is the time to explore the matter, and to get a general idea whether it can work. The Senator from Indiana is convinced that it can work. Richard Scammon and others who have studied the matter in some detail are convinced that it can and will work. The Senator from Alabama suggests we should have a statute to govern the administration of a constitutional amendment that is not even a constitutional amendment yet. I think that is going too far.

Mr. ALLEN. The Senator from Alabama did not suggest a statute. He suggested putting it all in the constitutional amendment, so that the legislatures of the States would know what they are voting on. As it is now, they have only half an idea.

Mr. BAYH. That is the point. As I have pointed out, many parts of the Constitution now have such flexibility. I think it is appropriate. It is not, in my judgment, submitting us to any foreseeable dangers. Instead it lets Congress, after this proposal becomes a part of the Constitution, make a judgment, calling on the experience of Senators such as the Senator from Alabama, who has a runoff in his State, to see how it should be implemented. I would leave to the States a maximum amount of authority, unless that authority is abused, at which time the Congress would provide for uniformity.

Let me suggest that if the Supreme Court ratifies and upholds the 1970 Voting Rights Act, the age problem and the residency problem, which were anticipated when we first introduced Senate Joint Resolution 1 several years ago, will now be moot questions. That issue will have been taken out of our hands, and will be uniform. Literacy tests, too, have been made uniform.

Mr. ALLEN. That might not be uniform. I assume the Senator is talking about the 18 year olds. But, as the distinguished Senator from Nebraska (Mr. CURTIS) pointed out yesterday, the States could go beyond that; that if the insurance age requirement were followed, it would provide that a person would be entitled to vote if his birthday was nearest to being 18 years of age, and that if New York were to put in such a law, it would be to the disadvantage of States that did not have the law, because it would open the polls to tens of thousands of additional people in that State.

Mr. BAYH. That is certainly possible, if the Senator from Alabama is correct. But I suggest that if the Supreme Court upholds the 1970 Voting Rights Act, saying that Congress has the authority to establish a uniform voting age of 18, Congress could make that a mandate and prohibit any State from lowering it to 17 for the election of the President.

Mr. ALLEN. But they have not.

Mr. BAYH. Mr. President, I find myself in the rather interesting position in comparison with my friend from Alabama, of arguing for States rights, and he is apparently opposing States rights. I must remark that I have seen other debates when apparently the shoe was on the other foot for both of us.

Mr. ALLEN. No, contrary to what the Senator from Indiana says, the Senator from Alabama is asking that he advise the States what they are voting on so they can protect their rights. The Senator from Alabama is not abandoning his time-honored defense of States rights.

Mr. BAYH. I am glad that the Senator from Alabama made the RECORD clear there, because I am sure he is not, and I hope he will not abandon his position. I think we have here a unique opportunity to meld together, in the finest tradition of our country, the rights and powers of States with the rights and powers of the Federal Government, by leaving certain of these determinations to the States. Unless the States are arbitrary in the use of those powers, the regulations established by the States will stand. For example, if some State, to use the wild hypothetical example I used in responding to our friend the senior Senator from Nebraska, lowered the voting age to 12, or some ridiculous thing like that, Congress would have the power to come back and say, "We are going to prevent that from happening."

I think we have the right amount of power on both levels here. I am sorry that my friend from Alabama does not concur.

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

Mr. BAYH. I yield.

Mr. HRUSKA. The suggestion made by the Senator from Alabama that the matter of a central or national vote-counting agency be resolved now is of great interest. I believe the State legislatures would like to know, either that we in our constitutional amendment will disavow any interest in getting Federal precinct inspectors and supervisors, State counters, and then a centralizing of the State counting in Washington, D.C., or that we will put that in the amendment and assert that right in these national elections. Then they will know what they are voting on.

As it is, as the witnesses testified last April—particularly Mr. White and Professor Bickel—there is no provision in that regard. Yet they see it following, as day follows night, that there must necessarily be, under the system authorized by Senate Joint Resolution 1, a national central counting bureau. If that is true, it seems to me that we ought to say so. We ought to say so, so that the States will know what further rights they are surrendering. They are already surrendering a good deal of the prerogatives of the States as we have known them since the beginning of the Republic.

One of the points made in the debate—and it will be made again and again—is that the resolution will tend to destroy the two-party system and encourage splinter parties. That is not the basis upon which the States have been operating up until now. It will tend to undermine the Federal system by removing the States as States from the electoral process. That is our contention. It is based upon the idea that there must inevitably be the assertion of Federal power in the voting process all the way from registration and voting through counting from the precinct level on up to the national level.

The State legislatures could vote more intelligently upon this amendment if they knew in advance, spelled out in the amendment, that a central national counting and election supervisory bureau will be created and that Congress has the power, duty, and the responsibility to implementing it. Then the major procedural steps can be set out in the resolution and the incidental decisions such as how big a commission, where it will reside, who will appoint it, whether it will be a part of the executive department, or whether it will be an arm of Congress can be enacted by simple statute.

What becomes of the separation of powers? That is another doctrine that is in great danger of destruction in this process of trying to amend the electoral college system.

The Senator from Alabama seems to me to have an idea that is very worthy and meritorious. I do believe that if this matter is going to be presented in any form to the State legislatures, they ought to know what they are buying.

Mr. BAYH. Would the Senator from Nebraska care to offer such an amendment to this resolution, establishing a nationwide vote-counting structure? The Senator from Indiana will vote against it. But if that is what the Senator from Nebraska feels he ought to have in here, then I think he should offer such an amendment. I see nothing in the language, as I said to the distinguished junior Senator from Nebraska yesterday, that suggests such a national body.

To be sure, men like Professor Bickel may have inferred that this would be like the day following the night, or vice versa. But I must say that it is interesting for the Senator from Indiana to see the Senator from Nebraska accept part of what Alexander Bickel says and deny other parts of what he says. It is the same as yesterday, when he was relying on Teddy White and Richard Goodwin to support part of his theory; but then, when men like Bickel, White, and Goodwin suggested that the large States have the clout under the present system, the Senator from Nebraska said no, the small States have the clout under the present system. He does not believe that Bickel, Goodwin, and White have any credentials when we are arguing that part of the case.

Mr. HRUSKA. This Senator is willing to accept the totality of the testimony and conclusions of Professor Bickel and Mr. White. There is a distinction in the presentation of all these witnesses. Certain facts are indulged in. They declare and assert certain opinions based upon those facts. We should not, in this Chamber, in any logical, rational debate, differ as to facts. We can differ on the conclusions drawn from those facts.

Professor Bickel and Mr. White are not in disagreement on this. They say that the amendment is no good, and they do not want it, and they advise strongly against it. I wholeheartedly concur.

Mr. BAYH. With all respect to the Senator from Nebraska, I think that if

he reads the testimony of Mr. White, Mr. Goodwin, and Mr. Bickel, he will find that they agree with him on the conclusions, not the facts.

The Senator from Nebraska made a compassionate, eloquent plea in support of the rural areas and talked to the Senator from Indiana as a farmer about the plight of the farmers of this country. The Senator from Nebraska suggested that we should not accept the direct popular vote and should keep the electoral college system as it is now because the small States have the advantage. But Bickel, Goodwin, and White say that the large States have the advantage. It is for this reason that they want to keep the present system and that they reach the conclusion that direct election is bad.

Mr. HRUSKA. But, at page 19 of the hearings of last April, there is printed a chart which shows that there would be a 29.7 loss of voting strength by the Midland States of North Dakota, South Dakota, Nebraska, Kansas, Montana, Wyoming, and Colorado. Their voting strength would be decreased, regardless of any conclusion to the contrary asserted by any witness that the strength would be lost by the metropolitan areas.

The same is true with reference to the Southwest States of New Mexico, Arizona, Utah, and Nevada. They will lose 37 percent of their voting strength as a group.

Mr. BAYH. The Senator from Nebraska should point out that he was previously quoting Bickel, White, and Goodwin and that now, coincidentally, when he refers to the small-State argument, he is quoting a document which he introduced into the RECORD himself.

Mr. HRUSKA. That is correct.

Mr. BAYH. The fact is that the three men he is relying on in connection with the national-vote count disagree with him 180 percent, so far as the figures are concerned that he introduced in the RECORD.

Mr. HRUSKA. The Senator from Indiana should not impeach this document on the basis of the man who puts it in the record, because that does not make any difference. That document, that chart, is based upon the official population and voting strength of the States. It comes from official sources. Is there any doubt in the Senator's mind about the mathematical calculation of these charts? They have not been challenged heretofore.

Mr. BAYH. The Senator from Indiana would be the last one to impeach the credibility of a document introduced by the Senator from Nebraska. In fact, so far as the Senator from Indiana is concerned, that would enhance its credibility.

But the fact is that this document is only half of a document. It takes the number of electors and divides them into the population and comes out with some rather interesting fundamental arithmetic.

But it ignores chapter 2 of that document, which must also be included—namely, the unit rule. It is the unit rule that causes men like Bickel, Goodwin, and White to suggest that the conclusions the Senator from Nebraska reaches from the document he put in the record are wrong.

Mr. HRUSKA. The fact is that all three witnesses—Professor Bickel, Mr. White, and Mr. Goodwin—argue not that the large-State power will diminish. That is not what they have argued. Their argument is that there will be a shift of power from the center cities to the suburbs. But they also point out that under the electoral college the smaller States have extra weight added to their votes. That is what they have been arguing. That is the thrust of their argument. The large States will still have the greater power. I think an analysis of their testimony will show that to be an accurate summary of their testimony. The large States will still have the greater power, but if the electoral college is abolished they will obtain an inordinate increase in power.

Mr. BAYH. I think that if the distinguished Senator from Nebraska will read carefully the statements of the three men, he will find that the analysis of the Senator from Indiana is accurate.

This goes back to the fundamental fault in this large State-small State argument. Distinguished men such as the Senator from Nebraska are saying that the small States have the advantage. Equally distinguished men, such as Goodwin, White, and Bickel, argue that the large States have the advantage.

We can look back in history and say this or that election resulted in so and so, and we can figure it out with a slide rule, that perhaps voters in one State or another, large or small, will have an advantage. But the question that the Senator from Indiana has proposed time and again is, Why should any State have an advantage? Why should not we all have the same opportunity to decide who will be President of the United States? Bickel, White, and Goodwin, I respectfully suggest, feel that if we change the system, we are penalizing the large States who, they feel, now have an advantage. I do not see how the hypothesis presented by the Senator from Nebraska holds water. What difference does it make if the population shifts from the center to the suburbs? The population is still contained in the State.

Mr. HRUSKA. I would most respectfully say to the Senator from Indiana that I have read the record carefully and I have had it verified by competent members of my staff, and the testimony of the three witnesses is that it is the large cities that will lose power in favor of the suburbs of those large States—not loss of power by those States.

But I would like to answer the question suggested, or comment on the question posed by the Senator from Indiana, why should any State have an advantage? Because that is the federal system. Look around us. Why does one State here have an advantage over another State? Because that is part of our federal system. That is the way the electoral college was fashioned. That is the way it has been from 1789, not 1804 or 1824. From 1789, it has been required to assign to each State an electoral vote consisting of a certain number of Members for the House of Representatives, and two Senate Members. That is why they should have an advantage—it carries into the voting for President the same federal system which is the basis for the Senate. Every time the question will be raised as to the unfairness of the disadvantage in some States, the Senator from Indiana and all who argue like him will be hard put to it to defend the existence of this body. He has stated that no State in this Chamber has an advantage over another State. Why is it, then, that California, the most populous State in the Nation with 20 million persons, has only two Senators, yet my State of Nebraska, with 1,400,000 persons, also has two Senators? How can the Senator answer that, if he argues that there should be no advantage in the electoral college system? There is no answer to that.

Mr. BAYH. If the Senator will permit me to say so, the Senator goes back to 1789 to suggest——

Mr. HRUSKA. That is exactly right.

Mr. BAYH (continuing). That the electoral college is operating now as Founding Fathers sugested it would operate in 1789. Does the Senator from Nebraska feel that it should operate as Madison, Hamilton, and Monroe and some of the Founding Fathers thought it should operate?

Mr. HRUSKA. No. It is not operating exactly in that fashion. The 12th amendment made minor changes.

Mr. BAYH. That is exactly right.

Mr. HRUSKA. But there is one feature that has been unchanged from its inception, and that is that each State has the total of its votes in the House and Senate to determine whether a President is elected. That was initially fashioned so that the small States would not be lost in the mill, so that they would have some reasonable weight given their interests so that the big States would not be able to overwhelm them completely by reason of their massive size.

How foretelling they were, and how wise they were in their foretelling, because now we have eight or 10 metropolitan centers—I forget what the percentage of the population is—with the overwhelming bulk of the population. Many of the other States are sparsely settled and, under the circumstances proposed by this resolution, those sparsely settled areas of the country would be completely inundated by pressures from the metropolitan centers. That is why there is a difference between the voting strength of one State over another—not disproportionately, not predominantly, but by a little, so that those similarly situated would find it possible to make their voices heard.

Mr. President, I ask unanimous consent to have printed in the RECORD tables which will be found on pages 19 and 20 of the April 15 hearings before the Judiciary Committee.

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

IMPACT OF DIRECT ELECTION ON VOTING STRENGTH OF MIDLAND, SOUTHWESTERN, AND SOUTHERN STATES

State	1968 estimated population	1968 electoral vote: Number of electors	1968 electoral vote: Percent of all electors	1968 direct vote: Number of votes cast	1968 direct vote: Percent of all popular votes	Voting strength lost in percent
Midlands:						
North Dakota	627,000	4	0.74	248,000	0.34	
South Dakota	656,000	4	.74	281,000	.38	
Nebraska	1,439,000	5	.93	537,000	.73	
Kansas	2,293,000	7	1.30	873,000	1.19	
Montana	693,000	4	.74	274,000	.37	
Wyoming	315,000	3	.56	127,000	.17	
Colorado	2,043,000	6	1.12	807,000	1.10	
Total	8,066,000	33	6.13	3,147,000	4.31	29.7
Southwest:						
New Mexico	1,006,000	4	.74	327,000	.45	
Arizona	1,663,000	5	.93	487,000	.67	
Utah	1,034,000	4	.74	423,000	.58	
Nevada	449,000	3	.56	154,000	.21	
Total	4,152,000	16	2.97	1,391,000	1.90	37.0
South:						
Virginia	4,595,000	12	2.23	1,360,000	1.86	
North Carolina	5,122,000	13	2.42	1,587,000	2.17	
South Carolina	2,664,000	8	1.49	667,000	.91	
Georgia	4,568,000	12	2.23	1,250,000	1.71	
Florida	6,151,000	14	2.60	2,188,000	2.99	
Tennessee	3,975,000	11	2.04	1,249,000	1.71	
Alabama	3,558,000	10	1.86	1,044,000	1.43	
Mississippi	2,344,000	7	1.30	655,000	.90	
Arkansas	1,986,000	6	1.12	610,000	.83	
Louisiana	3,726,000	10	1.86	1,097,000	1.50	
Texas	10,977,000	25	4.65	3,079,000	4.21	
Total	49,666,000	128	23.79	14,786,000	20.23	15.0

IF PRESIDENTS ARE ELECTED BY POPULAR VOTE: EFFECT ON STATES

15 STATES WOULD GAIN POLITICAL POWER

State	Percent of electoral votes	Percent of popular votes cast in 1968	Difference (percent)	Percent of change
New York	7.99	9.49	1.50	+18.77
California	7.43	9.89	2.46	+33.10
Pennsylvania	5.39	6.47	1.08	+20.03
Illinois	4.83	6.30	1.47	+30.43
Ohio	4.83	5.40	.57	+11.80
Michigan	3.90	4.51	0.61	+15.64
New Jersey	3.16	3.92	.76	+24.05
Florida	2.60	2.98	.38	+14.61
Massachusetts	2.60	3.18	.58	+22.30
Indiana	2.42	2.90	.48	+19.83
Montana	2.23	2.47	.24	+10.76
Wisconsin	2.23	2.31	.08	+3.58
Minnesota	1.86	2.17	.31	+16.66
Washington	1.67	1.78	.11	+6.58
Connecticut	1.49	1.71	.22	+14.76

34 STATES AND THE DISTRICT OF COLUMBIA WOULD LOSE POLITICAL POWER

Texas	4.65	4.20	0.45	−9.67
North Carolina	2.42	2.16	.26	−10.74
Virginia	2.23	1.85	.38	−17.04
Georgia	2.23	1.70	.53	−23.76
Tennessee	2.04	1.70	.34	−16.66
Maryland	1.86	1.68	.18	−9.67
Louisiana	1.86	1.50	.36	−19.35
Alabama	1.86	1.42	.44	−23.65
Iowa	1.67	1.59	.08	−4.79
Kentucky	1.67	1.44	.23	−13.77
Oklahoma	1.49	1.29	.20	−13.42
South Carolina	1.49	.91	.58	−38.92
Kansas	1.30	1.19	.11	−8.46
West Virginia	1.30	1.03	0.27	−20.76
Mississippi	1.30	.89	.41	−31.53
Colorado	1.12	1.10	.02	−1.78
Arkansas	1.12	.83	.29	−25.89
Nebraska	.93	.73	.20	−21.50
Arizona	.93	.66	.27	−29.03
Utah	.74	.58	.16	−21.62
Maine	.74	.54	.20	−27.02
Rhode Island	.74	.52	.22	−29.72
New Mexico	.74	.45	.29	−39.18
New Hampshire	.74	.40	.34	−45.94
Idaho	.74	.40	.34	−45.94
South Dakota	.74	.38	.36	−48.64
Montana	.74	.37	.37	−50.00
North Dakota	.74	.34	.40	−54.05
Hawaii	.74	.32	.42	−56.75
Delaware	.56	.29	.27	−48.21
District of Columbia	.56	.23	.33	−58.92
Vermont	.56	.22	.34	−60.71
Nevada	.56	.21	.35	−62.50
Wyoming	.56	.17	.49	−69.64
Alaska	.56	.11	.45	−80.35

1 STATE WOULD HAVE NO CHANGE

Oregon	1.12	1.12

Source: Testimony before the House Judiciary Committee, May 16, 1969.

Mr. BAYH. Mr. President, if I might suggest, I must say, as dispassionately as I know how, that it does not make good logic for the Senator from Nebraska, as one Member of this body, to suggest that the reason for keeping the present system was due to the wisdom of our Founding Fathers, who established it in 1789. Before the ink was dry on the document, they found they were in error, and the 12th amendment was necessary. They did not anticipate the development of political parties. With the advent of political parties and the unit rule, the mathematical formulas that the Senator from Nebraska continues to rely upon to sustain the advantage of the small States went right out the window. Today, under the present electoral system, despite the contention and the mathematical formulas to the contrary, we can elect a President if we carry the slimmest margin in 11 States—11 big States today. This hardly speaks well for the advantage of the small States. The small States do not have an advantage. If one can win New York, Pennsylvania, California, Michigan, Ohio, and Illinois, and the others of the 11 large States under the 1970 census figures, he will be elected President, even if he carries each State by only one vote. That is the way the system works. That is the reason men like Bickel, White, and Goodwin do not want to change the system. They are liberally oriented, and they want the liberals in the large cities to continue to have the advantage; yet the Senator from Nebraska continues to rely on these men of liberal persuasion who feel that the large States have an advantage, to support his contention that the system should not change.

Mr. ALLEN. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. May I finish first, please. I think my comment relates to the national vote count issue raised by the Senator from Nebraska and the Senator from Alabama. I must say that I find myself 180 percent away in assessing the small State-large State advantage. But I think the question of a national vote count should be resolved. I personally do not feel that we should have provisions in the Constitution providing for a limitation with a national bureaucracy going in and governing each precinct. There should not be language to that effect. I do not feel, as day follows night, that this will follow, because my friend Bickel thinks it does. I do not agree.

Mr. HRUSKA. There are many others besides Bickel.

Mr. BAYH. Pardon me?

Mr. HRUSKA. There are many others besides Bickel.

Mr. BAYH. I am sure there are probably a few others.

Mr. HRUSKA. Besides the realities of the situation.

Mr. BAYH. I do not think the realities of the situation are such. I am not familiar with the way the votes are tabulated in the States of Nebraska or Alabama or, indeed, in 47 of the other States. I am familiar with the way the votes are tabulated in Indiana, where we do not have a State election official standing at each precinct in every county in the State.

Mr. HRUSKA. We have.

Mr. BAYH. We do not in Indiana.

Mr. HRUSKA. We have two, one for each major party.

Mr. BAYH. We do not have them in Indiana. The votes are tabulated in most States by county officials. They are counted and sent to the State and there they are compiled and the State's total is arrived at. If this can happen in Indiana, then I suggest, if it happens there, it can happen in other States where they do not have appointed officials of the Governor to look into each ballot box as it is counted. So that I cannot see how it can happen on a national level. The votes are counted and certified at the State level, then sent to Washington where they are counted. It does not really make much difference to me where they are counted. They can be counted in the House of Representatives in general as the electoral votes now are tabulated, or we can establish by law to have an official do the final tabulating. We could give it to the General Services Administration or to the Director of the Census. I do not think that is important. It is a matter of running an adding machine. I think it can be handled very well. I think that this debate, this type of discussion, is good. If there is any question raised at a later date, I hope that some judge will look at what the Senator

from Indiana as the principal sponsor of this amendment had to say. He does not believe there should be a national bureaucracy set up to go into each precinct of the country.

As the Senator has heard me say, I think direct popular vote is the best way to guarantee an honest count. The direct popular vote is the only method which gives each party a reason to get the extra votes. If they get those votes, they will be counted in the national total. That does not happen now.

It was pointed out earlier today that it was suggested in a book that in 1960 the Democrats would never carry Indiana. I never had anyone suggest that to me. They decided to write off Indiana. It would not make any difference if they were going to lose by 265,000 or by 265 votes. All the Indiana votes would go to Mr. Nixon.

I am sure that the Republicans made the same assessment. They brought Mr. Nixon in at high noon one day and that was the last we saw of him. That was because they knew they were going to carry the State.

If we know that each vote will count, we will have a Democratic and Republican precinct man sitting at each polling place to make sure that vote is honest.

Mr. HRUSKA. Mr. President, let us get back to the 1789 Constitution. I find nothing repugnant in standing up for the principle and arrangement adopted then with reference to the electoral college and with reference to the Senate of the United States. I do not think that age is necessarily something that should be used against either of those matters.

The same system with reference to the assignment of electoral votes in each State is in operation now as was in operation in 1789. That part has not been changed one iota by the 12th amendment.

There has been a change in that the votes of the electors have to be cast for the President and Vice President together and not for the President separately and the Vice President separately.

That is what the amendment of 1804 was all about. But the assignment of a certain number of electoral votes to each State is now as it has been since 1789 pursuant to the same formula that was contained in the original Constitution as ratified. There was nothing thrown out the window. That is still the law. That is still how we find the assignment made today. I think that ought to be made perfectly clear.

I still say that anyone who contends for the scrapping of the electoral college and the scrapping of the votes would almost by necessity be unable to defend against a challenge made in the Senate Chamber for the proposition of two Senators for each State. I do not see how any other arrangement or conclusion can be reached.

If there is unfairness now with reference to the electoral college, there is at least equal unfairness by reason of the fact that the most populous States have the same number of Senators as the least populous States.

Mr. BAYH. Mr. President, the Senator is accurate in suggesting that the tabulation of votes by States as originally prescribed by our Founding Fathers is still followed today.

Mr. HRUSKA. Not the tabulation, but the assignment of the number of electoral votes. That is correct, and I stand by that statement.

Mr. BAYH. And the tabulation of those votes precedes the assignment of the electors. What has changed, and the Senator cannot deny it, is that our Founding Fathers did not anticipate the development of political parties. They did not anticipate the unit rule.

Read what Hamilton said. He was considering each of these men as red-blooded, intellectual patriots who were smarter than the average individual citizen. He was considering that they would have independent judgment. With the advent of the unit rule, where was the mathematical advantage to the large or small States which the Senator describes?

If I might, for the sake of the record, read what Alexander Bickel had to say on page 50:

> But the practice for nearly a century and a half has been to cast the electoral vote of each State by the unit rule. Under these conditions, the malapportionment in favor of the small States is for the most part only apparent, not in fact real. This is so because even a small popular majority or plurality in a State gains for a candidate that State's entire electoral vote, which, in turn, means that to carry New York, or Illinois, or California, or Texas by 50,000 or even 5,000 popular votes is to win a much larger block of electoral votes than could be won by getting large popular majorities in any number of small States.
>
> The system is, therefore, in effect malapportioned in favor of the large industrial States, . . .

Mr. HRUSKA. States, but not cities. That is the point he made.

Mr. BAYH. I would say that we do not have electoral votes cast by cities or suburbs. They are cast by States.

Mr. HRUSKA. The States have the power. But the point he was making was that the central cities themselves will lose significance.

Mr. BAYH. How can they possibly lose significance? There is not a suburb or a city that chooses an elector. States choose the electors by a statewide popular vote count.

Mr. HRUSKA. The Senator misses the point in the tabulation of the votes and the assignment of electoral votes to States by getting into a discussion of parties and the unit rule, and so on.

I did not contend that. I said this, with full confidence—and this is the fact—that the original Constitution devised a formula for the assignment to each State of the number of votes it would cast for the election of a President.

That formula still persists today. It is very simple. Add the number of Congressmen and two Senators for each State, and that is the number.

It is the destruction of that formula to which the Senator from Nebraska objects and strenuously objects.

Mr. BAYH. Mr. President, I sympathize with the Senator's desire to see that the formula is maintained in the same manner. What I am trying to suggest to my distinguished friend, the Senator from Nebraska, is that if he believes that the present system is supported by citizens throughout the vast heartland of the Mississippi Valley from which he comes and that it gives them a larger share of representation than they are really entitled to under the electoral college system, he is woefully wrong. And the man on whom he relies to sustain his case, Alexander Bickel, says so.

Mr. HRUSKA. Mr. President, the Senator from Nebraska does not bottom his case on Professor Bickel's argument, nor on that of Mr. White, nor on that of Mr. Goodwin, although in the main they agree with me on this.

The Senator from Nebraska relies on the fundamental proposition that when the electoral college, as such, is abolished, we will have changed our form of government. We will reach a point where we will impair to the point of uselessness the major political parties as we know them now. That change will result in the destruction of States as States in the electoral process of presidential elections.

Those are the things—and there are others—on which the Senator from Nebraska bases his case, not upon Mr. Bickel or Mr. White, or the others. I do not think there is any question that that will be the fact, because if the electoral system is abolished, the role the States play in the selection of the President will be ended.

The electoral system can be modified without forsaking the basic formula provided in the original document. It can be modified by proportional voting; it can be modified by a district plan; it can be modified by a joint session of Congress, with each Member of Congress having one vote for the present House vote with each State having one vote. And it can be modified by depriving the elector of his discretionary power as to whom he might vote for when the college meets. But the important thing is that the electoral system be based upon the proposition that the smaller States shall have the same protection from the overbearing and overwhelming strength of the large, populated States as they presently have in the Senate of the United States.

It is the elimination of such protection to which the Senator from Nebraska vigorously objects. He will resist that change as vigorously as he is able.

Mr. BAYH. I do not wish to imply that I am demeaning or underestimating the intelligence of the Senator from Nebraska. He is a worthy adversary. I am merely trying, as best I can, to persuade him to lend his talents and his persuasiveness to the other side of this question, in which I am seeking, as vigorously as I can, to involve him. I certainly do not believe that he bases his case on one person or individual. I am sure that his final persuasion will be that of ROMAN HRUSKA, not based on the views of anyone who may have testified.

What I am attempting to suggest to the distinguished Senator from Nebraska is that it is just a bit inconsistent to rely on the expertise of men like Bickel, White, and Goodwin, who say that the electoral college should not be changed.

and then to disagree with one of their basic concepts as to why the college should not be changed.

Bickel, White, and Goodwin believe that the electoral college should not be changed because it will give an advantage to the election of liberal elements around the large States, and the large States, then, will have an advantage under the unit rule. The Senator from Nebraska disagrees with that. I merely point it out.

I just cannot see how the two-party systems will be destroyed by moving to a national popular vote. I have done a considerable amount of reading on the subject. I invite any Senator who may desire to pursue the subject further to read the 65-page document compiled, after an extensive, 10-months' study, by the American Bar Association, in which the association cites the dozen or so principal works of outstanding political scientists.

Not one of them felt that the electoral college was in any way indispensable or even a primary factor in the development of the two-party system.

If we are to suggest that the direct popular vote for President would destroy the two-party system in America we might as well suggest that the two-party system has already been destroyed in States which elect their Governors, Senators, Representatives, mayors, aldermen, township trustees, and school board members by direct popular vote. The two party system is ingrained in the basic foundation of our political system. It is not going to disappear. It has not been weakened at the State level.

One of the reasons most people agree in connection with the two-party system is that the more you proliferate one of the parties the better chance you give the other side for winning.

These political scientists—and anyone who cares to read the bar association study can verify this—suggest that one of the major reasons we have had a two-party system is the election of candidates from single-member districts. We elect a Governor from a State, we elect a township trustee from a township, or a school board member from a school board member district. We do not apportion the power as some of our friends in foreign nations do. Thus, we have had a strong two-party system.

I suggest that, if anything, we are going to strengthen the two-party system by direct popular vote. I will not repeat what I said a moment ago but let the RECORD show I believe it will be better for the two-party system because under that system we know every vote will count and now it does not.

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

Mr. BAYH. I yield.

Mr. HRUSKA. Mr. President, I ask unanimous consent to have printed in the RECORD at this point the material in the minority views commencing at page 30 under the heading "Direct Election Would Destroy the Party System" and continuing over to page 33 to the conclusion of the first full paragraph on that page. I do that rather than to read it into the RECORD or to suggest that the conclusion of the Senator from Indiana is wrong, because I think it will save time and serve my purpose very well.

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

DIRECT ELECTION WOULD DESTROY THE PARTY SYSTEM

It is generally agreed that our two-party system has been an indispensable aid in carrying out the dual purpose of American politics: majority rule with minority rights. It is also generally agreed that in a multi-party system either or both of these goals would be frustrated. Given the extent and variety of interests which compose this land, the maintenance of a two-party system is a remarkable feat. Indeed, the striking fact about American party politics is not that we have had a number of third-party movements, but that we have not had more of them. All third-party movements in U.S. history, taken together, account for only 5 percent of the total vote cast in presidential elections.

The two-party system, however, is not a product of chance. Public opinion in this great and diversified land has no inherent tendency to divide itself into two, and only two, major political groupings. The ultimate causes of two-party politics are to be found in the requirements of the presidential election system under which parties have operated for nearly a century and a half. In the words of Prof. Richard McCormick, perhaps our foremost authority on the formation of parties in the 1820's and 1830's, "In broad terms, it was the contest for the Presidency that shaped this party system and defined its essential purpose." From the very moment of their inception, the major parties as we now know them had as their central organizing purpose the capturing of the Presidency. In order to carry out that goal, the parties had to contend with three constitutional requirements:

(1) The Constitution established a single office to be held by a single man. That is, it established winner-take-all on the national level.

(2) It required a majority of electoral votes for victory.

(3) It distributed a fixed number of electoral votes to each State.

In addition to these, there was a fourth requirement, which was a product of State law: the custom within each State of awarding electoral votes according to the unit rule.

These four requirements—a unitary Presidency; the necessity of carrying a majority of electoral votes; the distribution of electoral votes according to States; and the awarding of electoral votes within the States on the basis of winner-take-all—are chiefly responsible for the most important distinctive features of the American party system:

(1) We have only *two* major parties. Third party movements have been sporadic and, on the whole, ineffectual.

(2) The major parties, often called "national" are in fact coalitions of 50 State parties; the State parties, in turn, are coalitions of county and local party organizations.

(3) Both major parties include a wide range of interests and a broad spectrum of opinion.

Let us now consider briefly how these features are related to the requirements of the present electoral system.

THE NEED FOR BROADLY BASED PARTIES

Because a majority of electoral votes is required for victory, a party seeking the Presidency must expand its base of support beyond a narrow geographical region. And because electoral votes are apportioned according to the Federal principle, a party must campaign in all or most of the States. The States, thus, are the decisive political battlegrounds. The States, of course, are free to award their electoral votes as they see fit. All States, except one however, follow the practice of awarding electoral votes by the unit rule, winner-take-all; and they have followed the practice without notable exception for 150 years. Whatever else may be said about the custom, pro or con, it cannot be denied that winner-take-all has had a great impact on the character and structure of our political parties. Because of winner-take-all, a party is under a strong inducement to extend its platform as widely as possible within each State; it must expand its base of support to carry a popular plurality. Since both major parties face the same requirement, both must campaign in most of the same places before most of the same voters. Both must be hospitable to a wide range of minority interests which might otherwise be excluded from electoral competition. Every minority, in turn, is under an inducement to moderate its views to make them compatible to *both* major parties, at the risk of having to form a separate party.

Winner-take-all, in short, encourages both parties to include everyone and to exclude no one. Both, of course, have traditional bases of support which remain loyal over a considerable period of time; but with rare exceptions, these are seldom sufficient to provide the margin of victory. In most States most of the time, neither party can afford to alienate any sizable interest group; both are forced to seek the support of those who are not traditionally wedded to either party. Since both parties face the same requirements in all States, an electoral majority, when it does emerge, is both geographically dispersed and ideologically moderate. The victorious party is therefore capable of governing. The electoral college, in sum, produces truly competitive, State-based, moderate political parties.

Why, it will be asked, are there only two such parties? The answer is that the same inducements which produce broadly based, competitive, moderate national parties also operate to confine third parties to a narrow regional base. In order to compete with any hope of success outside a regional base, a third party must be able to outpoll the major parties in States where the major parties are strongest—a highly unlikely occurrence. The same difficulty is presented even within the regional base of the third party, for the major parties, or at least one of them, may be found competing there also.

DIRECT ELECTION WOULD ENCOURAGE SPLINTER PARTIES

Under direct election, most of the incentives toward moderate, broadly based, two-party competition are removed. It is true that a sizable popular plurality—40 percent—would be required for victory. But that, without more, is insufficient to sustain two-party competition of the kind we have known. Under direct election, it is not the distribution of the vote which matters, but only its size. Votes would be sought without regard to the States which happened to contain them. Interest groups would face no necessity to moderate their views or to compromise with other groups within their resident States. Candidates, in turn, would face no necessity to present a broadly based platform within each State. Indeed, there would be little necessity for a candidate to campaign in most, or even many, States. He would be encouraged to build a numerically sizable following without regard to its character. Since the same strategy would be followed by many others at the same time, there would be tendency toward a multiplicity of single-interest splinter parties, each uncompromisingly attached to a particular candidate. Only a few might realistically expect to win; but all would hope, at the very least, to maximize their bargaining position by accumulating as many popular votes as they could, if for

no other reason than to prevent someone else from winning.

As Mr. Richard Goodwin told the Judiciary Committee:

"To see that this is more than a theoretical possibility let us look at the experience of New York. That State is as close to a minature nation, in terms of diversity of population and interests, as any in the Union. It is as large as some countries. New York now has four parties. The two smaller parties—liberals and conservatives—cannot carry a single city or borough, but within a States that does not matter. Popular vote is everything in statewide contests. The result is that both minor parties are important, and can make a decisive difference in a close race. They behave on a State scale, exactly as we speculate that minor parties might act on the national scale: offering endorsements, making deals, and running their own candidate. For their members a separate party has proved the surest route to real power. If we move to direct election, there is no reason whatsoever why the same will not be true at the national level. In fact, operating just in New York both the liberal and conservative parties receive more votes than the total margin of national victory in two of our last three presidential elections."

The proponents of direct election may reply that the 40 percent requirement would mitigate against the multiplication of parties. It must be noted, first, that proponents of direct election originally favored a 51 percent requirement. That was reduced to 40 percent precisely because they doubted whether anyone could get 51 percent under direct election. That concession, however, may prove fatal to the proponents of direct election, because it confirms one of our worst fears, namely, that direct election will undermine the two-party system.

Moreover, we cannot but think it somewhat disingenuous to condemn the electoral college for being "undemocratic" while at the same time embracing a 40 percent requirement under direct election. For that figure, turned upside down, says that the man who is not the choice of 60 percent of the electorate shall be President. To this, proponents of direct election like to reply that under the present system, Presidents have been elected with less than a simple majority of the popular vote even while winning a majority of the electoral vote. What this argument fails to recognize is the essential difference between the size of a plurality and the manner of its composition. A 43 percent vote under direct election, for example (assuming it could be acquired), represents a very different kind of popular plurality from a 43 percent popular vote under the electoral college. The popular vote under the electoral college, even when it is less than a simple majority, is always widely dispersed geographically and ideologically and is distributed, moreover, throughout all the States. Thus, even when the winning percentage is less than a popular majority, it is still possible for the electoral vote majority winner to govern. Under the direct election scheme, which is indifferent to the way in which majorities are formed or where they are located, there is no guarantee that a winner will actually be able to govern.

The direct election proposal makes no provision whatsoever for any pre-election machinery capable of putting together a 40 percent coalition, or of insuring that the coalition will be truly representative of the Nation as a whole. The proponents of direct election assume that all else in the political process will go on pretty much as-is, that the negotiation, compromise, and coalition now undertaken by the two major parties within the States will be performed in the same way. No argument is made, no facts are listed, to indicate how or why this would be the case. We are asked to take it on faith that everything will continue in the accustomed manner. Needless to say, we have strong reservations about that prospect.

Mr. HRUSKA. I understand that the Senator's conviction is firm and that he is sincere in it. I give him every credit for it.

However, the fact is there are many political scientists who are in profound disagreement with the American Bar Association—and hallowed be its name; I have been paying dues to it for many years—and the views of the Senator from Indiana. I think my remarks have demonstrated that.

Mr. BAYH. Mr. President, I do not want to put words into the mouth of my distinguished colleague from Nebraska. He is able to do a better job of that himself.

I suggest there are a number of political scientists who disagree with the conclusion of the Senator from Indiana that we should have a direct popular vote. I must say I think there is a difference between the conclusion one reaches and the facts people use to sustain the conclusion.

I do not know of a number of political scientists who feel this is going to bring the downfall of our two-party system. There may be a few, but certainly most of them feel the two-party system is on strong ground. But if the electoral college is the only thing that perpetuates our two-party system we are in trouble.

Mr. HRUSKA. It may be so, but Alexander Heard, chancellor of Vanderbilt University, Richard McCormick, and Harry Jaffa, students and scholars of renown, have concluded that direct popular election will result in the destruction of the major political parties. There are others but these names will suffice to illustrate the outstanding men and scholars in this field who have reached that conclusion.

It was not the general conclusion of the Senator from Indiana to which the Senator from Nebraska referred. It was his conclusion that the major parties would not be impaired or destroyed. It was that conclusion with which I said many political scientists are in disagreement, and the record will so show.

Mr. BAYH. I must admit to the Senator that the Senator from Indiana at one time in the study, as we have been studying this for 4 or 5 years, had cause to reflect on what will be the future of the two-party system.

Mr. HRUSKA. Mr. President, we have been studying this matter for more than 4 or 5 years. This Senator testified for the first time on this question 10 years ago. It was a problem of immediate concern which was 10 years old at that time. I think it is significant that in spite of pressure, constant efforts, and many attempts, no action has been taken.

I recall well when the Committee on the Judiciary within a year or two after I became a member, reported a bill to the Senate and that bill provided there would be a combination of the proportional plan and the district plan and each State could choose whichever it wanted. Nothing came of it because the Senate did not think that recommendation was sufficiently meritorious to put on the calendar. That tells a story in itself. There have been those attempts and efforts and hard tries, and nothing has come of them. Why? Because there is not sufficient uniform thinking on the subject among those who make the decision to go forward with the proposition.

Mr. BAYH. We shall see whether that is the ultimate result of this effort or not. I sincerely hope it is not the case. I would like to point to rather substantial evidence that indicates that the American people have had enough and they are tired of playing American roulette every 4 years with this antiquated and archaic system.

I do not know how long the Senator from Nebraska has been studying this question. I know it has been far longer than the Senator from Indiana. It was a decade or so after we became a nation that the first amendment was introduced for direct election, so we are rank amateurs as far as bringing this matter before a national forum is concerned.

The facts are that the House of Representatives, by a vote of 339 to 70, has passed this proposal. Today we have grassroot support across the country the likes of which we have never had before, including bar associations, chambers of commerce, the AFL–CIO, the League of Women Voters, who have studied the matter with great particularity. Of course, their judgment is not immune from mistakes, but I think it speaks somewhat of the temper of the times in which we live. This wide spectrum of support has been evident across the country. When people are asked whether they should have the right to vote directly for the President, 80 percent of them respond in the affirmative. When 80 percent of the people respond in the affirmative, I have faith that we are not irresponsible to say that they should have the opportunity to vote as they desire.

I am glad to yield either to the Senator from Alabama or the Senator from Nebraska. The Senator from Alabama has been patient. I do not want to cut the Senator from Nebraska off in the middle of his colloquy.

Mr. HRUSKA. I wanted to suggest that no number, however large or small, of statements relating to the electoral college as ancient, antiquated, dangerous, and no good, makes it so. It is a good system. It has steered this country for more than a century and three-quarters happily and well and in a stable manner.

There are two respects in which it can be improved so that all the goblins and devils and semidevils that we see around us at election time can be removed. We can deprive the electors of their discretionary power and we can have a joint session of Congress to determine the election when there is not a sufficient majority, with each Member of the Congress having a vote to determine who will be the President.

Those two changes are the only ones that can be leveled against the electoral college system that have any real merit at all.

Every argument made in favor of abolishing the electoral college assignment of votes to each State and putting

direct election in its place can also be asserted against the composition of the Senate. And I do not believe that this body is ancient, antiquated, dangerous, and no good. I think it is a good system. I think it is the backbone of the strength of this Nation and its government. That strength and that stability also are partaken of by the electoral system in electing the President.

Mr. BAYH. I think I would be somewhat remiss if I did not suggest that there is a significant body of thought that disagrees diametrically with the conclusion of the Senator from Nebraska.

Mr. HRUSKA. And I will say so. I said every argument advanced to prove that the present electoral college system method of assigning votes to each State can be advanced to abolish the present composition of the Senate.

Mr. BAYH. Only if one suggests that the electoral college was and now is part and parcel of the federal system. The Senator from Indiana is not willing to make that a part of his argument at all. I think it is absolutely erroneous. The Senator from Indiana does not believe that the electoral college is important to the federal system. The U.S. Senate is one of the two pillars of the federal system. And the Senator from Indiana will fight, as long as he is here or has any influence anywhere else or as a citizen on the street, to protect that role of the Senate. But I suggest that the electoral college as it now operates has been distorted.

It is interesting for the Senator from Indiana to hear the Senator from Nebraska suggest the vitality and importance of the electoral college system and the wisdom of our Founding Fathers when the original purpose of the electoral college was to give to those electors complete freedom, as I think the Senator from Nebraska will agree.

Mr. HRUSKA. That is right.

Mr. BAYH. If it is so good for them to have complete freedom, why does the Senator from Nebraska suggest that the way to improve it is to take that freedom away?

Mr. HRUSKA. The Senator distorts what I said.

Mr. BAYH. I am repeating what the Senator said.

Mr. HRUSKA. The Senator from Nebraska would take the essence of the electoral college system today, the device, the formula, assigning to each State a certain number of votes to be cast in determining who shall be President of this country. It is that essence that the Senator from Nebraska would like to preserve. The Senator from Nebraska does not believe that the electors should have discretion to vote for whomever they want.

Mr. BAYH. Yet that is what the Founding Fathers desired.

Mr. HRUSKA. Yes; and the Senator from Nebraska does not believe they should have separate elections for President and separate elections for Vice President when the electors gather to cast their votes. That also has been cast aside.

I plead for the maintenance of the formula for assigned voting strength to each State. The original fashion in which those votes were cast is not of the essence, and I would plead strongly for the elimination of the person of the elector himself and replace him with an automatic casting of the number of votes from each State, either by district or by State, of the number of votes cast for the President.

I do not see by what process of reasoning the Senator from Indiana can say that the Senator from Nebraska wants preserved intact and unchanged what was in the original document of the Constitution. There has been no intimation of that. I think the record should show that fact, and perhaps some concession by the Senator from Indiana that that is the fact.

Mr. BAYH. The Senator from Indiana would not want to distort the views of the Senator from Nebraska, but I must say that the assessment made by the Senator from Indiana was correct in light of what the Senator said. I think the record will show that in a short period of time this inconsistency did show itself. I have been inconsistent in my own behalf. I am glad I can agree with the Senator from Nebraska that we should do away with the electors. I think it is a step in the right direction. It is a small step when we need a leap—

Mr. HRUSKA. On that we can agree.

Mr. BAYH. If I have been wrong in interpreting the statement of the Senator from Nebraska, I apologize. He knows enough of our relationship to know that I would not want to impugn his motives or misinterpret what he has said.

Mr. HRUSKA. I appreciate that, but I repeat that what the Senator from Nebraska has argued for from the original document of the Constitution is the essence of the electoral college system; to wit, the assignment to each State of a certain proportion of the voting strength that is used to elect a President. That is the central part of the whole thing, and it is the item and characteristic that impart to our Republic that federal character which has meant so much to it and which is the mainstay of the body in which both the Senator from Indiana and the Senator from Nebraska have the privilege to serve.

Mr. BAYH. I think the Senator from Indiana was trying to point out that it is a bit inconsistent to constantly invoke the infinite wisdom of our Founding Fathers as to the apportionment of votes under the electoral college system, and then to imply that they did not have infinite wisdom as far as the rest of it is concerned.

Mr. HRUSKA. Then does the Senator from Indiana believe that the entire Constitution should be destroyed? Because if you follow his logic and reasoning to its conclusion, the Senator from Indiana would have to disavow the entire Constitution. That I would not subscribe to.

Mr. BAYH. The Senator from Indiana has not been invoking the wisdom of our Founding Fathers. I agree that they were probably the smartest group of men who ever got together under one roof, but they themselves recognized that in this particular area they were found wanting.

For some of them were still serving in Congress when they passed a constitutional amendment to undo a part of the electoral system they had established.

Mr. HRUSKA. But not the part which conferred upon each State a certain number of votes in accordance with a well-devised formula for the purpose of electing the President. They did not touch that, and no Congress since then has touched that, Mr. President; and it is my hope that we will not do so at this time.

Mr. BAYH. It is the hope of the Senator from Indiana, with equal fervor, that this Congress will.

Certainly my friend from Nebraska has nothing but the finest of motives and intentions, but despite the good intentions of the proponents of the district plan, the proportional plan, or the automatic plan, all of those plans fail to strike at some of the basic shortcomings of the present system.

Only the direct popular vote permits the people of this country to vote personally for their President and Vice President. Only the direct popular vote guarantees that everyone's vote counts the same, and only the direct popular vote—and this is the most important of all—guarantees that the man who is elected President is the man who gets the most votes.

I think to suggest that we would accept less than these three important criteria is to be less than forthright in the fulfillment of our duty.

The PRESIDING OFFICER. What is the will of the Senate?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Berry, one of its reading clerks, returned to the Senate, in compliance with its request, the bill (H.R. 16968) to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, and for other purposes.

The message announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 16900) making appropriations for the Treasury and Post Office Departments, the Executive Office of the President, and certain independent agencies, 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. STEED, Mr. PASSMAN, Mr. ADDABBO, Mr. COHELAN, Mr. MAHON, Mr. ROBISON, Mr. CONTE, Mr. EDWARDS of Alabama, and

Mr. Bow were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 17575) making appropriations for the Departments of State, Justice, and Commerce, the judiciary, and related agencies 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. ROONEY of New York, Mr. SIKES, Mr. SLACK, Mr. SMITH of Iowa, Mr. FLYNT, Mr. MAHON, Mr. BOW, Mr. CEDERBERG, and Mr. ANDREWS of North Dakota were appointed managers on the part of the House at the conference.

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

DESTRUCTION OF THE FEDERAL SYSTEM

Mr. THURMOND. Mr. President, most proposals for electoral system change are perfecting amendments of one sort or another, designed to cure abuses and deficiencies in the electoral college system. However, if the provisions of Senate Joint Resolution 1 are incorporated into the Constitution, a profound alteration of the federal system will take place, with indeterminable effects throughout our political machinery. Therefore, Senate Joint Resolution 1 must be considered not as reform, but as the alternative to reform, that is, as a radical reconstruction of our constitutional theory.

Historically, the Constitution is often viewed as a response to an 18th century situation. However, the reason why the Constitution has survived for nearly 200 years is that it was more fundamentally a response to the eternal problems of balancing political power. Many people agree that the formula of 1789 can be improved so that we can move toward the goal of a "more perfect union." But the radical surgery proposed by Senate Joint Resolution 1 may cut more deeply than it heals.

As the noted proponent of political change, Mr. Richard Goodwin, noted in the course of the hearings before the Senate Judiciary Committee:

> If we were starting a new country we might well do things differently. In fact, the idea of an electoral college would probably never occur to us. But that is not our privilege. We are trying to continue and improve a system of government which has lasted longer than any other in the history of the world. Times change of course and so must we. I myself believe we need radical changes in our social and economic policies. But when it comes to modifying the structure itself, the process by which change comes, then we can only afford to act when we are certain of improvement. The theoretical and remote chance of what at worst would be a rather minor malfunction does not warrant a change which might have large and unforeseen consequences. And once made, of course, there is no return. (Pp. 167–168.)

The historical incidents of the politics of compromise at the Philadelphia Convention have receded into the textbooks, but they have left behind a legacy of political wisdom in the structure of our institutions. The Constitution is an attempt at finding means other than mere population as the basis of distributing political power. The division of powers between State and Federal governments and the separation of powers within the Federal Government were designed to preserve communities within which the citizen could fully participate to the extent that he was qualified. It provides a delicate balance of competing interests, promoting coalition and compromise.

However, the key compromise was hammered out on the question of the federal system itself. The Senate and the House of Representatives are testimony to this compromise, with two Senators representing every State and the House apportioned according to population. This is not simply a compromise between large and small States on representation. It is a compromise on the nature of the Union, as indicated by the lively controversy as to whether it should be a great, consolidated central government, or whether the States should retain status over their own affairs. The Senate, with equal representation, is a body representing the sovereign interests of the States—a concept which was clearer in the original method of choosing Senators by State legislatures. The House, with proportional representation, is a body representing the interests of the people.

This basic point was underscored in the statement of J. Harvie Williams to the Senate Judiciary Committee:

> The more perfect Union formed by our limited Constitution of representative government, and the sources of its power are Federal and national. It is the *Federal* Union of sovereign people equally represented in the Senate and the *national* Union of sovereign people equally represented in the House of Representatives. Each is superimposed on the other in both the legislative and executive branches of the government; and are separated from each other at the roots of their power—the States and the People. This, I submit, is our original and unique contribution to the art of politics and statecraft.

The electoral college system is based upon this same compromise. The problem of balance between large and small States, and the relation of States to the Federal Government is solved in the same way—namely, the electoral votes shall equal the whole number of Senators and Representatives. In this way, the legislative compromise embodied in Senate and House is translated into terms of Executive power. In short, the legislative and Executive power is divided throughout the Nation according to the same principle of compromise. Senate Joint Resolution 1 would destroy this parallel system for the selection of the Executive.

The Federal principle allows for a subtle and complicated relation both between large and small States, and between the States themselves and the Federal power. It also provides a rich source for local variations and new responses to the problems of the time. Our present system is not a simplistic rendering of the Constitution; it is an organic growth which has many surprising developments and relationships. It has a potential for satisfying the claims of both majority and minorities, as Yale Law Prof. Alexander M. Bickel pointed out in his testimony before the Senate Judiciary Committee:

> The seeming paradox, embodied in the Electoral College, of a system which offers the possibility of disproportionate influence both to cohesive groups in the large States and to the small States—this paradox should not seem strange in this chamber, for it is embodied also in the Senate itself. The at-large popular election of Senators means that in the big industrial States cohesive groups can have disproportionate influence in the elections of Senators, just as under the Electoral College system, they can have disproportionate influence in the election of the President. For this reason, the Senate has in recent years had a more urban and liberal orientation than the House. Yet at the same time, of sources, the Senate is the place of disproportionate influence for the small States, being malapportioned in their favor in far greater measure than the Electoral College.

Senate Joint Resolution 1 would reduce this complex system of democracy to a simple head count. The federal principle would play no part in the selection of an Executive who is even now far more powerful than envisioned by the Constitution. Senate Joint Resolution 1 would swing the present imbalance even further out of line. It was to this point that the journalist and political observer Theodore White testified before the Senate Judiciary Committee:

> It changes the nature of our Presidential campaigns. Our Presidential campaigns right now are balanced in each party to bring a compromise, to eliminate the extremes of both sides, and create a man who has at least the gift of unifying his party and thereafter the nation.
>
> Once you go to the plebiscite form of vote you get the more romantic, the more eloquent and the more extreme politicians, plus their hacks and TV agents polarizing the nation rather than bringing it together. It is that fundamental erosion of the U.S.A. that horrified me . . . (p. 110–111).

It is clear, then, that Senate Joint Resolution 1 would not reform our electoral system's shortcomings but rather would substitute an entirely new system, of unpredictable merit, for the federal principle which is the cornerstone of our Constitution.

Theodore White, Prof. Alexander Bickel, and other witnesses before the committee have thus become alarmed over the direct election plan's sharp break with the past. By altering one element of our checks-and-balances system, we will most certainly disrupt the rest of the system in ways that are perhaps impossible to foresee.

However, some effects of the direct election plan, unforeseen by its sponsors, are very easy to predict. Mr. White pointed out that such traditional voting blocs as the Negro vote and the Jewish vote would be overwhelmed if all votes were cast into a national pool. Such vot-

ing blocs traditionally carry an influence out of proportion to their size. Many liberals have become alarmed that this disproportionate influence would be destroyed by the direct election proposal.

At the same time, the direct election proposal would also destroy the legitimate representation of regionalism that is inherent in the present Constitution. The Federal principle would be utterly destroyed, not only as it relates to the highest office in the land but also as it relates to the vast power of the executive branch. Our Government is not based upon mere numbers but upon the feeling of community which the voters have in each State.

As it happens, I am the only Member of the Senate who has personal experience with the power of regionalism in the electoral college. In 1948, when I ran as the presidential candidate of the Democratic States' Rights Party, I captured 39 electoral votes. The intention of this race was to deny a majority both to Truman and to Dewey, and thus bring into play the House of Representatives as planned by the framers of the Constitution.

This plan failed only by a few votes. If the States' Rights candidates had carried two more States, or if the Republicans had not lost two of the three they were scheduled to carry, the election would have gone to the House.

However, the strength of the electoral college system was demonstrated by the fact that I won these 39 electoral votes with a popular vote of 1,176,125. Henry Wallace, an ideological candidate in the same election, had a popular vote of 1,157,326, but won no electoral votes. His votes were scattered around the country.

Regionalism is a healthy development in a nation, since it gives citizens a feeling of community and involvement. On the other hand, ideological candidates lead to divisiveness and factionalism, as demonstrated by the governments of France and Italy. Reform of the electoral college, therefore, should strengthen the States, and lessen the chances for ideological factionalism.

The chief fault in the electoral college today is the widespread adoption of the unit system, or winner-take-all method of assigning votes in each State. The unit system is not part of the U.S. Constitution, but has gradually been adopted by the States. It maximizes the strength of the large States, and also gives rise to the importance of bloc voting in large population centers. A few thousand votes in a large city can win a whole State.

I have long worked for electoral college reform. The plan which I have supported over the years would keep the electoral college, but break up the unit system. Each voter would vote for two electors at large, and one elector in his evenly apportioned district, in the same way as he now votes for two Senators and one Congressman. This is the so-called district plan.

The district plan meets the criteria for fair and just electoral reform. It eliminates the disproportionate effect of bloc voting, but strengthens the role of the States in national politics.

The direct election plan is full of unfortunate results. It undermines the federal system which has served us so well since 1789. It increases the likelihood of corruption and attempts to swing elections. It fails to provide any mechanism for such important questions as qualifying a candidate, certifying elections, or handling recounts.

There is also the danger that the direct election plan will never be ratified by the States, thus thwarting the reforms outlined above. One-third of the States will lose power under the plan. There are 99 houses of the State legislatures—Nebraska is unicameral. If only 13 of those 99 houses failed to ratify, the project would fail. I believe it is far better to get on with a genuine reform than attempt radical surgery.

Mr. President, an article entitled "The Most Deeply Radical Amendment," by Columnist James J. Kilpatrick, was published in the Washington Star of September 8, 1970. I now wish to present this article to the Senate. It reads:

The United States Senate launches itself this week into one of the most fateful debates in American constitutional history. By the end of this month—by early October at the latest—the Senate will have voted up or down a resolution proposing the direct national election of Presidents.

"I think a case can be made," Yale's Prof. Charles Black has said, "for the proposition that direct election, if it passes, will be the most deeply radical amendment which has ever entered the Constitution of the United States."

That assessment is shared by many others, both lawyers and non-lawyers, who see in the direct election proposal a fundamental alteration in the structure of American federalism. Yet the resolution has passed the House already; it reportedly commands strong popular support; and the action to be taken by the Senate has this unrecognized meaning: If the Senate approves, and the resolution goes out to the States for ratification, any further effort at electoral reform would be effectively blocked for seven years. That is the period allowed by the resolution in which three-fourths of the states must ratify or fail to ratify.

Consider, for a moment, the changes that would occur in the whole business of nomination and qualification for the ballot. Under existing law, political parties hold national conventions and nominate their presidential and vice presidential candidates. Then state parties, acting under state law, undertake to get those tickets listed on state ballots.

It is at this point that the machinery of federalism begins its delicate braking action. Major parties ordinarily have no trouble in getting their candidates on the ballot in every state. The petition process makes it more difficult for third parties. George Wallace, it will be recalled, had a terrible time in 1968 before he could get his American Independent Party qualified. When Strom Thurmond ran in 1948, he made it to the ballot in 15 states only.

The machinery of state-by-state qualification, coupled with electoral voting by states, has worked to inhibit the power of third parties. Only four times in this century has a minority party won electoral votes. The Socialists, Progressives, Prohibitionists, Constitutionalists and others have sputtered ineffectively within their state compartments. And because each of the two major parties has been compelled to make a broad appeal, the United States has benefited from political stability and prudent compromise.

Under the pending resolution, this machinery would be junked. No matter what its sponsors say, the direct election amendment would require (and its language so permits) that ballots be uniform throughout the United States. Nothing else would make sense. An entire new system would have to be created by which any group calling itself a political party filed the names of its candidates with a Federal Board of Elections. We could reasonably expect a Black Peoples party, a Peace party, a Revolutionary party, a Young Americans party. I am myself a Whig, and might run. In a nation so large and so passionately diverse, a dozen "parties" surely would bid for a footnote in history.

Then what? State lines no longer would matter. We are now thinking of cumulative votes, across the nation as a whole. It requires no great work of the imagination to conceive that such an aggregation of States Righters, New Leftists, Anti-Fluoridationists, and Ban-the-Bombers could drain enough votes to prevent either of the major parties from winning 40 percent of the total.

In 1968, even with the machinery of federalism working, it was Nixon 43.5 percent; Humphrey 42.8; and Wallace 13.5, with two-tenths split among Gene McCarthy, Eldridge Cleaver, a Communist named Mitchell, the Prohibitionist Munn, and others. Given a similar situation, under the pending amendment, a run-off would be held between the top two—probably the first week in December—amidst wild cries of "deal" and "sell-out."

Is this what we want? Is this prospect of chaos truly better than the "obsolete" but functioning system that now exists? The questions are squarely before the Senate now.

Mr. President, Mr. Kilpatrick is one of the ablest columnists in this country. He has written a number of fine articles on this subject. I invite the attention of the Senate to other articles that this able writer has provided the public on this topic.

Mr. President, Thomas A. Lane writes a column that is of vital interest to the American public. This column is entitled "Public Affairs."

In an article on September 18, 1968, he discusses this subject under the heading "U.S. Must Retain Electoral College."

It reads as follows:

The campaign for electoral reform is based upon misinformation and misrepresentation. Advocates of centralized power would take another giant step in breaking down the Constitution.

They allege that democracy requires direct popular election of the President. That is a contention without merit. The Chief Executive of Great Britain is elected by Parliament, not by the people. In Germany, neither the President nor the Chancellor is elected by the people. In France, the President is elected by popular vote but the Premier is not. In India, neither the President nor the Prime Minister is elected by popular vote. In the general pattern of democratic government, the people elect representatives who elect the heads of government.

The Electoral College adapts this parliamentary system to the different pattern of American government. It numbers electors in the combined strengths of the House of Representatives and the Senate, but it provides a special body of electors (who may not be members of Congress) to elect the President. Just as the creation of a bicameral legislature resolved the conflicting interests of large and small states, so were those interests again reconciled in the election of a President.

Throughout our history, the Electoral Col-

lege has served well. It has resolved conflicts with minimum delay and uncertainty. It would be singularly improvident to change from so effective a system to a direct popular vote.

The direct vote proposal has serious defects. In a close vote, who would believe the count? The potential for recount would be opened wide. With three candidates, do we accept minority government or do we have a run-off election? The system would intensify strife and confusion.

Politicians appeal to the spectre of George Wallace to arouse popular opposition to the third party threat. Their fears actually underscore the special merit of the Electoral College. The present law does not allow minority government. It requires a majority of the electoral votes for election.

Thus, Richard Nixon carried a majority of the electoral vote even though he did not win a majority of the popular vote. That was true of John F. Kennedy in 1960. We regard them as majority presidents.

If Richard Nixon had received less than a majority of the electoral votes, the Wallace electors would have been required by the interests of their voters to cast their votes for Nixon rather than Humphrey. The Electoral College would have expressed the will of the people without the confusion and turmoil of a run-off election.

The direct vote plan has even more serious defects. It would destroy state participation in the electoral process and centralize election control in the federal government. With the capacity of modern news media to shape public opinion, the invitation to demagogy is apparent. No one who cherishes the American system of government can vote for such change.

There are some, however, who would withdraw the discretion of electors in voting for a president. That ill-considered proposal would destroy one of the most valuable features of the College—its capacity to resolve minority elections. Although this option is rarely exercised, it should be retained.

Others suggest that the electors should be chosen, one from each congressional district and two from the state at large, as are members of Congress. The suggestion has merit, but it is already within the power of the states. It can be adopted by state legislatures whenever the voters insist on that method of choosing their electors. A constitutional amendment is not required.

The campaign for electoral reform comes chiefly from those socialist-oriented Americans who see salvation in a centralized all-powerful government. They have no taste for the American way.

Mr. President, that column was written by Thomas A. Lane, a very able writer on the American scene.

WHICH WAY AMERICA?

Now, turning to another topic, ever so often an author will be moved by some indefinable inspiration to sum up concisely the mood of the Nation. He will hit upon exactly the thoughts which everyone is thinking, and express them clearly, and with a profound understanding of their meaning.

Such an article appears in the August issue of Christian Economics, an article entitled "Which Way America?" It was written by the distinguished Southern journalist, Anthony Harrigan, who has recently assumed the post of executive vice president of the Southern States Industrial Council. Mr. Harrigan has written a broad ranging and deeply philosophical piece which explains the present predicament of our Nation, and offers a solution.

Mr. Harrigan points out that our present situation is unique because, for the first time, we must recognize that many Americans—a minority, to be sure—have accepted the concept of the United States as an evil Nation that must be destroyed. He traces the growth of this concept to the transplantation of absolutist thinking from Europe during the thirties and forties. He says:

The traditional pattern of life here had allowed different areas to live in different ways. Americans did not anticipate the conditioning of minds or centralization of opinion. Local loyalties and traditions were respected. The notion of the law as an instrument for accomplishing social revolution was alien to our people.

Mr. Harrigan then goes on to say:

Law in the American sense, was designed to protect the individual from oppression and wrong-doing. It was regarded as a restraining influence, not as a monolithic directing force. Such a non-absolutist attitude towards law, government and society was bitterly opposed by the Europeans who assumed commanding positions in the universities and the intellectual community off-campus. The traditional easy-going American approach to national problems gave way to an angry, harsh, all-out approach which stressed "necessity."

This absolutist approach in our universities and in other positions of intellectual leadership has borne its bitter fruit. The great centralizing effect of national radio and television has served to promote this line of thought in a way that would have been impossible to foresee. As Mr. Harrigan writes:

It's no wonder that such moral and intellectual confusion abounds. Never before in the nation's history has there been a studied attempt to change American psychology, to dissolve faith in America's achievements and values, to make dirty things of national symbols, to brainwash the entire population and to create inside the country a parallel society of protesters who dissent from every action and value of the United States. We are witnesses, in other words, to an effort to transform our society by lies and violence and to liquidate its strength.

Mr. President, this is a vitally important article, and I urge all Americans to study it carefully. Mr. Harrigan has captured the essence of our problem, which is basically moral and spiritual at heart.

Mr. President, I think that this article, "Which Way America?" by Anthony Harrigan is so important that I would like to read the entire piece into the RECORD at this time.

WHICH WAY AMERICA?

(By Anthony Harrigan)

The signs of our time point to the fact that we in the United States are entering a dark age of internal strife, marked by the decline of civilized values and the emergence of a new barbarism and revolutionary spirit. In Asia, the U.S. is on the verge of suffering total defeat in war because of indecisiveness and revolutionary agitation on the homefront. Authority and discipline in the nation's armed forces have been downgraded to where some troops use the clenched-fist salute of communist origin and where the command structure is virtually powerless to halt publication of underground subversive newspapers on military posts. A filthy flood of pornography covers the country and is described as a "sexual revolution." Nihilists in universities occupy academic buildings, threaten professors with bodily injury, and hold guns on administrators. Bishops of an historic communion bow to blackmail and vote to give money to an organization that calls for destruction of the U.S. government and the crippling of American society.

DISAFFECTED CITIZENS

The United States has been beset before by deep-seated divisions. It has known internal conflict and experienced losses of loyalty among some of its citizens. Except for the Civil War, however, the nation's difficulties always have been resolved without resort to open conflict. Peaceful adjustment and reasonable accommodation always have been possible. Today, Americans have reason to doubt that the nation's problems can be solved as they have in the past. New and severe methods may be necessary to assure the nation's survival and to protect cherished freedoms.

The unhappiest reality of our era is the acceptance by numerous Americans of a concept of the United States as an evil nation that must be destroyed. Radicalism is nothing new in the history of the U.S. What is new and perilous is the burning hatred of America by many thousands of disaffected citizens who enjoy its freedom, security and prosperity, who bite the proverbial hand that feeds them. This ugly passion has been revealed in the revolt of the Vietniks, but it has deeper roots than protest against U.S. participation in the Vietnam War.

A CONTINENTAL GERM

Prof. Andrew Ezergailis, writing in the *Yale Review* (June, 1969), asserts that the havoc in America today stems from seeds of absolutism (advocacy of a rule by absolute standards or principles) planted in the last generation. "Somewhere along the way since the end of the Second World War," he says, "a portion of America's youth caught the continental germ of absolutism and now they demand totalitarian purity in politics and society."

In years past, U.S. colleges and universities spoke for the churches and states that created them and for the alumni who received their education there and sustained the institutions' growth. The idea of alienation from the surrounding American life was virtually unknown.

A NEW IDEOLOGICAL EMPHASIS

To be sure, America was not wholly free of ideological thinkers even in the early years of the 20th Century. Nevertheless, the number of ideologies in America was small until a generation ago.

Significant change took place in the thirties and forties. A generation was involved in a world war in which ideology was a factor. At the same time, the United States gave refuge to many educated Europeans who were steeped in the absolutist doctrines of the continent. Many of these refugees became formidable figures in America's intellectual life. They stamped their ideological approach to public issues on a rising generation of writers, jurists and public officials. For the first time in American history, newcomers shaped the nation's thinking, instead of American society giving shape to the newcomers' vision of life in this land.

A NEW ACTIVIST MENTALITY

America was not ready to receive such a transfusion of absolutist conceptions. American society had not evolved so as to be able to deal effectively with the sophisticated absolutism of European origin. The traditional pattern of life here had allowed different areas to live in different ways, Americans did not anticipate the conditioning of minds or centralization of opinion. Local loyalties and traditions were respected. The

notion of the law as an instrument for accomplishing social revolution was alien to our people.

Law, in the American sense, was designed to protect the individual from oppression and wrong-doing. It was regarded as a restraining influence, not as a monolithic, directing force. Such a non-absolutist attitude toward law, government and society was bitterly opposed by the Europeans who assumed commanding positions in the universities and the intellectual community off-campus. The traditional easy-going American approach to national problems gave way to an angry, harsh, all-out approach which stressed "necessity."

One of the first departments of American life to feel the impact of the new intellectual approach was the law. Activist judges swept aside the precedents born of generations of adjudicating disputes among American citizens, states and the federal government. A passion for "justice," narrowly defined and shaped to serve a particular conception of government, became so strong in the fifties and sixties that fundamental needs of society—under the heading of law and order—were ignored or scorned.

FRUIT OF ACTIVISM: CONFLICT

What happened in this period is that the conscience of a large part of the nation was radicalized. In this process, the electronic media, chiefly television, played a central role. Television, as in the "news" programs of the late Edward R. Murrow, became an instrument of absolutists who were trying to impose their conceptions on the American public. The cameras presented lawful authorities as overbearing and brutal, but carefully avoided showing any of the provocative acts engaged in by political activists. Spokesmen for revolutionary change were given ample time to make a powerful impact on national audiences. Revolutionaries were presented as calm and logical. No embarrassing questions were put to demonstration organizers. Their smooth words were recorded but not their brutal or insulting actions. As a result, revolutionaries received a sympathetic feedback. Many young viewers were fired with enthusiasm for turning America upside down.

CHALLENGE OF NAKED POWER

The challenge to government and society is one of naked power—the same challenge that the Nazis held up to the German people in the 1930's. Concerned citizens often ponder the ugly record of recent years: Watts, Detroit, Newark, the yippie war against Chicago, the Easter bomb plot in New York City, the junkets to Hanoi by various American friends of Ho Chi Minh, the march on the Pentagon, the SDS coups at Columbia and Harvard and the invasion of the Wisconsin Assembly. Nothing succeeds like success. Thus the abuse and terror continue: more threats of arson, militants shouting obscenities at churchmen gathered in convention, insults to judges on the bench and Black Panthers teaching children to kill policemen.

THE FOLLY OF POWER WORSHIP

The absolutists in our midst, who have caused this mess, started out justifying anything in the name of "justice." Now, they worship the absolute of power. They talk of "participatory democracy," but aim at an absolutist "democracy" of their own making. Young men are told—and many are persuaded—that rioting and a touch of arson can bring a world without war, prejudice or hunger. Anyone who can believe that can believe anything.

Ten or even five years ago, if America's leaders had appreciated the danger posed by absolutist conceptions, it would have been relatively easy to prepare universities for the coming assault, to stiffen the backbone and moral understanding of the churches and to prevent infiltration of the armed forces by militants. Because nothing was done to defuse the New Left and to pulverize its incipient absolutism, an evil has spread across the nation.

A DAZED CITIZENRY ASK QUESTIONS

The prestige and authority of the United States government has accumulated in the course of almost 200 years. Yet as our country approaches its bicentennial celebration, much already has been accomplished by the New Left to eradicate the esteem with which Americans have viewed their republic. Many citizens seem dazed by the efforts of those who distort and downgrade America. The U.S. public may be approaching the point where it doesn't know what to believe about the country. After years of ceaseless propaganda from homegrown haters of the United States, many Americans ask: Are our military leaders the cause of wars in the world today? Is the United States attacking a legitimate nationalist movement in Vietnam? Has our society adopted inhuman values?

It's no wonder that such moral and intellectual confusion abounds. Never before in the nation's history has there been a studied attempt to change American psychology, to dissolve faith in America's achievements and values, to make dirty things of national symbols, to brainwash the entire population and to create inside the country a parallel society of protesters who dissent from every action and value of the United States. We are witnesses, in other words, to an effort to transform our society by lies and violence and to liquidate its strength.

Survival requires that the federal and state governments use all their lawful authority to deter and isolate those who make a new religion or cult of violence against America and its institutions. Fortunately, the hard-core of violence oriented defectors from our society is still a small percent in a nation of more than 200 million people.

PRESCRIPTION FOR PEACE WITH FREEDOM

Stamping out the revolutionary movement will require unusual firmness and steadfastness. Americans place a high value on tolerance, and are reluctant to take vigorous measures against even the most open and notorious advocates of disorder. One is reminded of Hegel's dictum: "History is not the realm of happiness." This absolutist, whose conceptions have brought so much woe to mankind, was right in indicating that the carrying out of essential task of life and leadership, can be an unhappy experience. We all yearn for the older America that was free of internal clashes and ideological strife. Nevertheless, we won't again enjoy the blessings of peace with freedom without administering unpleasant remedies, precisely as the physician often has to prescribe bitter medicine in order to restore health to a sick man.

It is important to bear in mind that no irreversible law of breakdown rules our society. Breakdown occurs only where our society has failed to take preventive measures against the sick, aberrant element within. This destructive element, which is trying to destroy our way of life, has seceded from allegiance to America. An inner secession from our country is no more permissible in the late 20th Century, however, than a sectional secession was tolerable to the nation in the mid-19th Century.

WEAPONRY TO COMBAT INTERNAL BARBARIANS

If the law is our shield and spear, it will have to be used in innovative fashion. Laws already on the books can be used in new ways.

The law doesn't afford society sufficient protection where it only imposes punishment on those who commit acts of violence. To be adequate to the needs of peace and justice for the community, the law has to apply against those who advocate violence and preach overthrow of the United States or its political subdivisions. Long ago, the American judiciary established the principle that freedom of speech does not extend to those who shout "fire" in a crowded theater. Today, the entire United States is a crowded theater—a setting where an irresponsible act could result in a massive conflagration.

If we accept the concept of law barring advocacy of revolution in any form or whatever guise, this understanding will crystallize out in the form of new rules for the operation of our society—rules that will make possible the security of America in the remaining years of this century.

THE DARKNESS CAN BE DISSIPATED

The basic assumption we must make is that our society has a right to defend itself against those who would liquidate its values—that there is a superior wisdom in the organization and purposes of the United States that rightfully commands protection. To put this truth in other terms, America has an inalienable right to keep the internal barbarians at bay. The darkness that's fallen over America will lift if the American government and people offer total resistance to revolution.

THE FLIGHT TO THE SUBURBS

Mr. THURMOND. Mr. President, Mr. Walter Trohan, the head of the Chicago Tribune Washington Bureau, wrote an article for the Tribune which was published in that newspaper on September 7, 1970, entitled "Flight To Suburbs Has Meaning."

This article is one of importance, and I feel it should be called to the attention of the Members of this body, and, therefore, I should like to read it to the Senate at this time.

Mr. Trohan says in the article:

Perhaps nothing so demonstrates the failure of the school integration decision of 16 years ago as the preliminary figures of the 1970 census. This is your failure and my failure and the failure of every American man, woman and child.

The preliminary figures show that suburbanites now outnumber residents of the central city for the first time. The trend away from the central city is not only common to New York and Chicago but also to lesser concentrations like Peoria. Washington's suburban population is over 800,000, exceeding that of the capital itself.

Many reasons may be offered for this, but we must face the facts. One of the more important reasons is the school integration program. In the capital of the nation, the population has virtually stood still between 1960 and 1970, but the schools have become almost entirely black.

Whites have fled to the suburbs here, as they have in other cities. Their places have been taken by blacks who have come from the deep South or from the slums of northern cities.

And in the South, integration is also failing. In Summerton, S.C., for example, one of the cities involved in the historic decision declaring racial segregation must cease, the once white schools have an all black enrollment because whites have turned to private schools.

America should have learned from Prohibition that it is impossible to legislate morals. The noble experiment, which was conceived in the highest idealism, resulted in wholesale disrespect for law and the rise of syndicated crime with its murders, extortion and violence.

Integration had even loftier aims which few opposed in their hearts, but many, saw as moving too rapidly. The result has been

that today most blacks are not happy with whites of any hue and many whites are disappointed with blacks.

There may be much in the black contention that integration is proceeding on white terms. But this would hardly seem to justify the position of some blacks that they be segregated on their own terms.

One of the saddest stories of the integration drive comes from Fayette, Miss., a test tube of the race issue. In this predominantly Negro town, blacks once lived in fear, but today whites live in fear, according to an article in the magazine, Business Week, and the Delta Democrat Times of Greenville, Miss.

Fayette has Mississippi's only black mayor, Charles Evers, the brother of Medgar Evers, the Negro civil rights leader who was assassinated in Jackson, Miss, on June 11, 1963. Mayor Evers says there is no "tension" in Fayette, but Mrs. Marie F. Walker, editor of the weekly Fayette Chronicle, says there is black terrorism, in speaking for the whites, outnumbered four to one.

Mrs. Walker tells a sad story of intimidation and disregard of law. This commentator doesn't know enough of the acts to decide whether right lies with Mayor Evers or Mrs. Walker, but he does know that politicians—white, red, black or yellow—generally justify any form of extremism to remain in power.

Our concern should be with any and all evidence that integration is breaking down. If we are to survive, it should not break down, but it cannot be kept afloat on either black or white terms.

George Meany, head of the AFL–CIO, made it clear that blacks should not be taken into unions merely because they are black, but promised they will be accepted if qualified.

Integration doesn't mean an all black society, nor does segregation necessarily mean an all white society. In the ideal community equality must be built on ability and culture—not revolution and prejudice.

THE BLIGHT OF "WELFARE"

Mr. THURMOND. Mr. President, I should like to invite the attention of the Senate to an editorial published in the Chicago Tribune recently, entitled "The Blight of 'Welfare.'" This is a subject on which the Senate will be legislating in the near future and is one of paramount importance today. Because of that, I should like to present this editorial to the Members of the Senate.

"Welfare" is a word of good connotation—cf, Webster's: "state or condition in regard to well-being; condition of health, happiness, prosperity, and the like"; also, "good cheer; material plenty; a good thing." In order to capitalize on these euphoric definitions, the politicians have given us the Department of Health, Education, and Welfare [bundling all good things into one] and the "welfare state," under which, supposedly, we should all be as happy as kings.

But lest we be carried away let us examine the realities beneath the buoyant terminology. A helpful point of departure is the extraordinarily informed, and profoundly depressing, paper read here last week by Roger A. Freeman before the Governmental Research Association. Mr. Freeman is associated with the Hoover Institution on War, Revolution, and Peace at Stanford, and until recently was special assistant to President Nixon.

His conclusion, buttressed by overwhelming statistics and specific citations of failure, is that everything touched by government, no matter how good the intention, is blighted and withered. There is a general death of every part touched. In every program of government activity, after the expenditure of billions, hundreds of billions, and even trillions, Mr. Freeman says, all attempts to correlate tangible achievements with resources applied "have cast great doubt on the idea that improvements are necessarily proportionate to the amounts spent or even tend to be favorably affected."

What are the primary purposes of the state? First, the protection and safety of its citizens, their lives and property, from would-be attackers, foreign and domestic. Second, to establish and enforce rules for the ordinary and peaceful conduct of civil affairs and to settle disputes among its citizens.

The thrust of the "welfare state," however, is not in these directions. It has succeeded in circumscribing the range of decisions a citizen can make for himself and his family by assuming to make these decisions for him and it has drastically infringed on his right to determine the share of his resources which he can allocate to his various wants according to his own wishes by taking such determinations unto itself. It aims to overrule, thru the political process or by threats, the rewards and punishments of the free market, both in the disposition of goods and resources and in ideas and options.

With what result? "Our international position and our defensive strength, measured against the power of potential enemies," Mr. Freeman says, "have never been as weak. The safety of person and property in our homes and streets—and on highways—has never been as much threatened or more frequently violated. At the same time, government has never before claimed, held, or exercised so many responsibilities for our personal affairs nor made so many decisions affecting our individual lives. It has assumed duties which, judging by the results, it is unable to discharge satisfactorily, while neglecting or forsaking its foremost and primary obligations."

While the "welfare state" proliferates, devouring an ever-increasing share of total tax revenue, the political statists who try to daub cosmetics over its manifold failures keep up their dishonest bleat that, if it weren't for expenditures on national defense, government "services" wouldn't be "starved."

Mr. Freeman disposes of that propaganda by demonstrating that, since 1952, defense spending declined from 50 per cent of all federal expenditures to about 18 per cent today, while domestic services climbed from 37 per cent to 66 per cent in the same period. Of $145 billion now being laid out on domestic services, $118 billion goes for social welfare.

Despite these huge outlays, results are negligible where they are not counter-productive. Crime, delinquency, and most kinds of social ills are multiplying at a frightening rate, the federal, state, and local expenditures on crime prevention and law enforcement have increased 338 per cent in 17 years. A criminal has four chances in five never to be arrested; a person arrested has five chances out of six not to serve time in jail or prison; and the one in about 30 criminals who winds up behind bars serves on the average only 55 per cent of the time to which he has been sentenced.

The status and products of our educational system do not reflect the fact that more than five times as much is now allocated to it each year as was being allocated two decades ago. Expenditures for public education have increased 489 per cent since 1952 and staff in the school system has increased 172 per cent, while enrollment has been increasing only 78 per cent. Yet the result is what one study committee called a continuous "spiral of decline."

The government's approach to relief for the poor and aid to families with dependent children, Mr. Freeman says, is not directed at rehabilitating recipients or turning them into self-sustaining workers. Rather, its precept is that there should be no connection between work and income. "Why," Mr. Freeman asks, "should persons of little skill and low productive capacity work for a wage that is not more than what they can get on welfare, and often less?" So the rolls increase by leaps and bounds even in times of rising prosperity and employment—that of ADC rising from 2 million recipients in 1952 to 7.5 million now, with benefits rising 117 per cent in the same period.

These enormous "welfare" outlays have a bearing on inflation, of which we all complain. But, as Mr. Freeman says, only government can create inflation: thru budget deficits, easy money, and lopsided labor policies.

For example, consider construction costs. In 22 years the urban renewal program has destroyed three times as many buildings as it has completed. It has not removed slums but shifted them from one part of the city to another. In doing this, government adds billions to the housing demand in subsidies, grants, loans, and guarantees, and this in a market in which private demand is high and costs and prices are rising faster than in the rest of the economy. The inflation engineered in this way drives moderate income families out of the housing market and adds their voices to the clamor for more housing subsidies.

These examples could be multiplied endlessly, in every field from farm quotas and subsidies to foreign aid, with its harvest of thistles and venom. Taxes on everyone, except the free riders, are already prohibitive. How much crazier can we get?

Mr. President, that is an article which I hope will be read by all Senators. I hope they will study this subject further and in depth. The matter of welfare today is one of great importance. It is costing this country billions of dollars. Sooner or later we must come to the point of providing people on welfare with various types of trade school, technical and vocational training, so that they can make their own way in life. It is unfair to the individual to keep him on welfare when he can be trained and made into a productive citizen.

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

The PRESIDING OFFICER (Mr. BELLMON). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

DIRECT POPULAR ELECTION OF THE PRESIDENT AND THE VICE PRESIDENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 1) proposing an amendment to the Constitution of the United States relating to the election of the President and the Vice President.

Mr. BELLMON. Mr. President, as a member of the commission of the American Bar Association that spent some 2 years in studies and in the preparation of the language which has become the main portion of Senate Joint Resolution 1, and also as a representative of a small State

I feel that I am in a rather unique position so far as this debate is concerned.

I might say that when the American Bar Association commission undertook its study of the electoral college, I entered into this study as a Governor of a small State and with my mind, I thought, made up that I would never be in favor of any change that would abolish the electoral college. I felt, rather selfishly I might say, that the electoral college gave the small States some advantage, and while it had flaws and imperfections the approach we should take would be to correct those flaws and imperfections and yet preserve the system.

But as the studies of the American Bar Association commission proceeded, I began to realize more and more that my earlier feeling toward the electoral college was a mistake. I felt simply because a State like Oklahoma, with a fairly small population, and with eight electors, by virtue of an elector for each Representative and Senator, had a small advantage.

As I worked with other members of the commission and understood more how the electoral college operates I began to see that the small States are at a great disadvantage during campaigns, as party platforms are drawn, and also as the executive branch operates in the administration of the programs Congress passes. The reason is very simple. At the present time, because of the "winner take all" provision of the electoral college, a candidate for President can be elected if he carries only the 12 most populous States. This, then, causes the candidates for President and the parties preparing to make the campaigns for President, to generally ignore the small and less populous States and prepare campaigns and platforms that appeal to the most populous States of the Union.

I have before me a compilation of appearances made by both candidates for President in 1968. This information was furnished to my office by the national committees of both parties. We found that both of the committees concentrated the campaigns and scheduled candidates in those States which have been referred to as the "big eight." These are the States that have the most electoral votes. These States are: New York, Pennsylvania, Ohio, California, Illinois, Michigan, Texas, and New Jersey. Those so-called big eight States have a total of 227 electoral votes. In 1968 the presidential candidates made a total of 63 visits to those eight States.

Looking at the attention which the candidates paid to the less populous States, we find there are 16 States with 82 electoral votes where the candidates made no appearances at all. That is to say, neither the Republican nominee nor the Democratic nominee took time to stop in any of these 16 States.

Also there were a large number of States in which the candidates made only one stop: Delaware, Iowa, Louisiana, Maine, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Virginia, West Virginia, Wisconsin and Idaho. A candidate of one party or the other made one stop in those States so, Mr. President, you can see there is a total of 13 States where the candidates made a total of only one stop in each State and 16 States where they made no stops at all; and in eight States with the most electoral votes they made 63 visits.

This is symbolic of the attention the smaller States get from the parties and the candidates when they are running for President and it indicates the attention they get from the executive branch after the campaign is finished and the winner begins discharging his duties as the Chief Executive of this Nation.

I recognize there are many persons who feel otherwise; who feel that a State like Alaska, with two Senators and one Representative has more influence now than it would have under a direct vote. But I submit that this is not the case because at the present time the State of Alaska gets no attention from the candidates and if we had the direct vote the voters of that State would be just as important as the voters of another State.

At the present time a candidate who takes time out to go to Alaska can only hope, if he succeeds to win every vote in that State, to get the three electoral votes. The candidates feel the time would be better spent in a State where they would get a larger block of electoral votes.

I feel very strongly that the smaller States of this Union need all the breaks they can get. Our population trends are continuing in the direction of the concentrating of more and more people in our more populous States, to the great disadvantage of those States and also the entire Union. Therefore, I feel that the Congress ought not to take steps that are likely to further that trend.

I would certainly not favor a change in our electoral system if I felt the small States were going to be damaged by such a change in the Constitution, but my study of this question throughout the time I served as a member of the American Bar Association commission, and since that time, convinces me that the smaller States are going to be helped, and not hurt, by the abolition of the electoral college and by the substitution of a direct vote for President in its place.

I feel very strongly that as long as a voter in California is a means by which a candidate for President may hope to win 40 electoral votes and when a voter in the State of New York is a means whereby a candidate can win 43 electoral votes, those votes are going to be more important to the candidate than the votes of citizens in a State like Oklahoma where the candidate can hope to gain only eight electoral votes or, perhaps under the new census, only seven votes. Therefore, we in the smaller States are going to have to take a back seat to the larger States under the present electoral college system.

That would not be the case if every voter had an equal vote and an equal voice in the election.

The interesting thing about a political campaign is that the crowds that candidates get are as large in the small States as they are in the big States. So it is not the fact that the candidates appear before larger groups that motivates candidates to go into large States like California and New York, and the other States that make up the Big Eight, but, rather, by going into those States the candidates are hopeful of winning the big blocks of electors that make the difference in the outcome of presidential elections.

There is another reason why I feel the electoral college works to the great disservice of the smaller States. Anyone who has studied the outcome of elections in States like Illinois and New York, particularly, will recognize that the vote between the out-State voters and the urban centers voters divides almost evenly.

For example, in Illinois, the down-State vote generally goes Republican and the Cook County vote tends to be Democratic. Since we have a winner-take-all situation in the electoral college, the pressures are tremendous on the Democratic organization in Cook County to build up a sufficient majority to overcome the down-State Republican vote and in that way throw the total block of electors in the State of Illinois to the Democratic Party.

The same is true in New York. The New York City vote tends to be Democratic, and the upstate voters in New York State tend to vote Republican. So there are tremendous pressures in the city of New York for the Democratic organization to deliver a large enough vote to overcome the Republican majority in upstate New York, and in that way capture the total block of electors for the Democratic Party.

I believe that this situation, more than anything else, contributes to some of the irregularities that have plagued our presidential elections in recent decades. If every voter in this country were of equal importance, the pressures would be just as great in the small precincts and in the small States to get the voters to vote as they presently are to get the voters to cast their votes in those special situations.

There is another reason that causes the electoral college to work to the disadvantage of the small States, and that is that many of our small States tend to be one-party States. For instance, my State of Oklahoma has tended, until very recently, to be a one-party State. The same is true of the State of Kansas. My State of Oklahoma tended to be Democratic. The State of Kansas tended to be Republican.

Under the present system with the electoral college, the Republican voters in a State like Oklahoma had little tendency to go out to vote because the State generally ended up in the Democratic column, and the votes cast for the Republican candidate did not count.

In Kansas, the Democratic voters had little tendency to vote because the State generally went Republican and their votes were disfranchised.

Under the direct vote proposal, the vote of all citizens in all parts of the country will be counted, because the votes will be cast directly for the President, and the minority voters will not be ruled out or disfranchised by the winner-take-all arrangement.

The same kind of problem would exist if we went to some of the other kinds of changes proposed in our electoral system. Under the district system, the minority party in a district that tended to vote with the other party would be disfranchised, and that plan would be undesirable for a large number of voters in this country.

When I first became involved in an effort to improve the electoral system, I felt very strongly that there were some aspects of the present system that needed to be corrected, but that they could be corrected and the system could be preserved; but I feel now, as I felt after I studied the question for a while, that there is absolutely no way that the electoral vote in the electoral college can be preserved, but, rather, that the time has come for us to completely abolish the system and give every voter in this country an equal vote and a direct voice in the choosing of our President and Vice President.

In my opinion, these two offices are by far the most important offices in the world in these times, and they deserve to be filled by individuals who have gained those offices by virtue of having been the choice of a majority of the voters in this country, who have gained those offices without resorting to any kind of trickery or kind of political machinations, and who, therefore, can serve without the feeling on the part of many of our citizens that they were the second choice or that they were not chosen except by accident.

I feel that if we continue using the electoral college as it now exists, the day will come when we will have a candidate who will have gained the office of President by accident, and that fact will turn the country into turmoil. A Chief Executive who will not have the full backing of the voters of this country will therefore find it difficult to discharge the onerous task that goes with leading the most powerful nation on earth.

I feel, therefore, the time has come when the Senate must follow the pattern that the House has already followed and abolish the electoral college and substitute in its place a direct vote for President.

I feel very strongly, as has already been said on the floor, that the hour is late; that if we undertake to amend Senate Joint Resolution 1, throwing it back into a conference with the House, the time will expire, the Senate will adjourn, and we will not be able to amend the Constitution during this session; that it will take many months to reach this point again in another session, and before the Congress is able to act, the time will expire and we will not be able to get the approval of the various State legislatures, and that we will have another Presidential election under the same system now in existence.

Therefore, I feel it is extremely urgent that the Senate vote on this matter and that we place it before the State legislatures, so that they will be able to act upon it, to truly modernize our system of electing a President.

I recognize that there are many who are fearful that the change to a direct vote will cause some serious changes in the makeup of our National Government; but I do not share those fears.

I have checked the CONGRESSIONAL RECORD for the year 1911, at which time the Senate was debating the question as to whether or not we should change to a direct vote for choosing Members of the Senate. Up until that time, as Senators will remember, Members of the Senate were chosen by the State legislatures, and there were many who felt that if we gave up that system and went to a direct vote for Senators, very serious and undesirable results would follow.

For example, in the debate, the then Senator from New York, Mr. Elihu Root, on February 10, 1911, speaking in defense of retaining the system whereby members of the State legislature chose U.S. Senators, made this statement:

> Let us continue upon the theory that State governments are corrupt and incompetent. The time will come when the Government of the United States will be driven to the exercise of more arbitrary and unconsidered power, will be driven to greater concentration, will be driven to extend its functions into the internal affairs of the States; and then sooner or later the people of the country will reject a Government that has subjected their personal and intimate neighborhood affairs to the control of a central power in Washington, and then in the place of competent States governing their own affairs we shall go through the cycle of concentration of power at the center while the States dwindle into insignificance, and ultimately the breaking up of the great Republic upon new lines of separation.
>
> Mr. President, there is another view of the fundamental proposition on which this resolution rests. It is an expression of distrust for representative government. It does not stand alone. It is a part of the great movement which has been going on now in these recent years throughout the country and in which our people have been drifting away from their trust in representative government. These modern constitutions which are filled with specific provisions, limiting and directing the legislature in every direction, furnishing such startling contrasts to the simplicity of the Constitution of the United States, are an expression of distrust in representative government. The referendum is an expression of distrust in representative government.

It is obvious that Senator Root was very much concerned that giving the people the opportunity and responsibility of voting directly for U.S. Senators was going to produce some fundamental changes in our Federal system. It is equally obvious that the years since 1911 have shown that Senator Root's concern was not well founded. I doubt that any Member of the Senate would be willing now to go back to the old system of having Members of the Senate chosen by the legislatures of the various States.

I believe that Senator Root suffered from the pain that was described many years ago by Walter Bagehot, in an article entitled "Physics and Politics," in which he said that one of the greatest pains to human nature is the pain of a new idea. I would suspect that for Senator Root, the idea of running in a public election was rather painful because it was new.

I am of the opinion, having heard some of the debate here, that one of the things that makes many Senators today oppose the change in our electoral college and the adoption of the direct vote for President is that the idea is somewhat new to them. I doubt that their fears will come to pass, any more than the fears Senator Root had some 50 years ago, when he stood on this floor and advocated retaining the system by which Senators were elected by State legislatures.

I share some of the fears expressed by some of my colleagues; but after studying the matter from the viewpoint of the smaller States, I feel strongly that the best interests of the country and of the smaller States will be served by abolishing the present electoral system, with its winner-take-all arrangements, and going to a direct vote, which will give every qualified voter in this country an equal voice in choosing the President, and thereby make certain that the person who occupies the position of President of this country holds his position by virtue of being the choice of most of the voters in the country, and is thus the unchallenged leader of the United States in conducting its affairs as they relate both to the progress of our country and to his peacekeeping responsibilities.

I very strongly feel that the time when this decision should be made is now. It should not be put off any longer, and I am hopeful that if the Senate will act promptly, the State legislatures will also act, so that, by the time we elect our new President in 1976, we will have a new system, which will give every voter a reason to participate, and to realize that his vote counts the same as the vote of any voter in any other State.

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

Mr. BELLMON. I am glad to yield to the Senator from Indiana.

Mr. BAYH. I have listened with great interest to my colleague from Oklahoma. Having been familiar with the development of the support for this particular proposal, I must suggest that the contribution that the Senator from Oklahoma makes is perhaps more significant than that which might be made by any other Senator. He had the opportunity to study this proposition independently before he came to the Senate, and from talking with him personally as well as listening to his remarks I know that his views changed somewhat as he went through the study.

My experience was similar. My opinion changed as I delved into the actual functioning of the electoral college system. I compliment my distinguished friend and colleague from Oklahoma particularly for presenting to the Senate the quotation from former Senator Root, in which he prophesied that there would be great discord and the country would be on its knees if the Members of this body were chosen by a direct popular vote.

I ask my friend from Oklahoma to comment briefly as to whether he shares my opinion that the change which we propose—direct popular vote for President—is not in fact a revolutionary change. Nor would it be a panacea for all of the other problems that confront

our country today. I hope he agrees that we do not offer it as a panacea for problems, but rather because it gives us the opportunity to minimize the chance of malfunction of the Presidential election system.

Mr. BELLMON. I certainly agree with my colleague from Indiana. I feel that Senate Joint Resolution 1 does exactly that. It will prevent, or at least greatly lessen, the opportunity for a breakdown in the system whereby we choose our President. Also, in my opinion, as I have already stated, it will lessen the pressures for malfeasance in the way our electoral processes are carried on. I very strongly feel that this country, at the present time, and perhaps for the next decade or so, is going to face very tense times, both here at home and abroad. I seriously doubt that a President who held his office as a result of what could appear to some to be trickery, or perhaps even just an accident, could discharge the duties that he will be faced with and make the decisions he will be called upon to make.

I feel that while this proposal, as the Senator has stated, is not revolutionary, it is certainly one of the most important decisions that the Senate and Congress will be called upon to make for many years. I am very pleased that the committee of which the Senator from Indiana is chairman, and which he has led so ably, has come to the conclusion that the House of Representatives reached, and that this makes it possible for us to go ahead and act upon this matter promptly and to bring about the change which I feel is absolutely necessary and which in many ways is long overdue.

I might say to the Senator from Indiana that one of the recent developments that strengthens my belief in what is about to happen here is what has happened to us in the State of Oklahoma. Until the present time, the State of Oklahoma has had eight electors because of the fact that we have two Senators and six Members of the House of Representatives. As the result of the most recent census, which is not yet final, but based upon the preliminary reports, our State has gained 7.3 percent in population; yet, we apparently are going to lose a Representative. This means that the voters of Oklahoma, when they vote next for President, will have one less elector, even though we have more citizens than we have had in the past.

To me, it is rather arbitrary and totally unfair that the electoral system works to deprive a growing State, as we are, of our voice in choosing the President.

Under the present system—that is, under the system in effect—when we chose our President in 1968, one electoral vote in Oklahoma represented 291,035 citizens. If we lose one of our representatives and one of our electors, as apparently is going to happen, when we vote in 1972 and in 1976 and in 1980, one electoral vote in Oklahoma will amount to 356,911 voters. This, I think, shows how totally unrealistic and how wrong it is to have such an arbitrary system that changes the voting strength of an individual citizen of this country simply because his State happens to wind up one side or the other of the line when the representatives are divided up.

According to the figures we have been able to compute, as based upon the most recent census, in the United States the average elector represents 372,000 citizens. So our State, which is a small State, would still have fewer than the average for the Nation, but an electoral representative would represent about 60,000 more voters than was true when we voted in 1968.

Mr. BAYH. I appreciate the focus that the Senator from Oklahoma brings to bear on the question of the small-State large-State argument. Indeed, some Senators are concerned that a change would penalize the small States. But the Senator from Oklahoma, who comes from a less-populated State, has studied this matter carefully and has reached the conclusion that going to a direct popular vote would not be disadvantageous to the small State.

Mr. BELLMON. That is correct. I feel that small States have a great disadvantage at the present time, and the fact that Presidential candidates do not even bother to campaign in 16 of the smaller States is eloquent testimony to that.

One other reason that causes me, as a citizen of a small State—and, as I have said, of a traditionally one-party State—to favor a change to direct vote is the fact that the present system discourages citizen participation. The fact that we have an electoral college and the fact that many citizens do not feel that they are actually voting for President tends, I believe, to discourage them from even voting at all.

I served as State chairman of a political party and also for a time as national campaign chairman for President Nixon during the early days of his campaign. I know that in many of the one-party States there was not even serious thought about President Nixon campaigning. We recognized that there was no chance to win in those States, and therefore there was no reason for him to put in an appearance. We realized that if he did not get a majority of the votes in those States, he would get no electors at all.

If we go to the direct vote system, then no matter how strongly a one-party tradition may exist in a given State, there will still be reason for a candidate to go there and campaign, because he will get some votes as a result of his effort.

Mr. BAYH. Then, in addition to the small State-large State argument, which I think the Senator from Oklahoma has put to rest very ably, it appears to me that the Senator is dealing with accusations and concerns of some opponents of Senate Joint Resolution 1 that direct election would weaken the two-party system. It is the experience of the Senator from Oklahoma that the contrary would be true. Is that accurate?

Mr. BELLMON. That is exactly true. I feel that the present system, which makes it rather unnecessary—and, in fact, futile—for candidates to campaign in one-party States, would be totally changed if the candidate knew that by going to these States he would get a certain number of votes under a direct-vote system.

For example, if I had been the manager of Hubert Humphrey's campaign in 1968, I certainly would not have allowed Vice President Humphrey to campaign in a State such as Kansas or Nebraska, or for that matter, even in Oklahoma—though he did come there—because those States were leaning strongly the other way. There would be no purpose in Candidate Humphrey even planning to come to those States, because there was no chance for him to gain anything from it.

I think that the present system works to the disadvantage of many sectors of the country and totally to the disadvantage of our form of representative government.

I strongly feel that this is the most important question that has been before the Senate this year, and since I have been a Member of this body. I again want to congratulate the Senator from Indiana for the leadership he has displayed in bringing this matter before the Senate in the way it has been done.

Mr. BAYH. I do not want to delay the Senator further, but I wish to compliment him on his remarks. I hope that history will show that because of the leadership and the determination of him and other Senators, such as the distinguished Senator from Tennessee, at long last we will lay to rest the possibility that this system will malfunction.

Although there has been concern about fraud, we must recognize that fraud alone will not cause malfunctioning. Fraud is not the only way the present system can malfunction. Three times in the past the electoral college has given to the country a President who has fewer votes than the man he is running against, as the Senator from Oklahoma knows.

We could, of course, continue the system in which all our votes do not count the same.

But we now have a chance to rectify these inequities and to protect ourselves from such a possible malfunctioning.

I express my personal appreciation to the distinguished Senator from Oklahoma for the contribution he has made.

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

Mr. BELLMON. I am happy to yield to the distinguished Senator from Tennessee.

Mr. BAKER. Mr. President, I wish to commend the Senator from Oklahoma for this presentation and to apologize to him for not being present in the Chamber during the entire delivery.

He makes a point, though, that is important to all of us who come from small or medium sized States, who are confronted with the anomaly of an increasing population and a decreasing electoral vote. Tennessee, it appears, may be one of those States, where we now have 11 electoral votes—nine Members of the House of Representatives and two Senators—and there is at least some possibility that our House delegation will be reduced from nine to eight and our electoral vote from 11 to 10. Yet, the popula-

tion of Tennessee has increased very materially.

It seems to me that this anomaly is proof positive of the necessity for overhaul of the electoral system if the medium and small sized States are to continue to be effective partners in the federal system.

Mr. BELLMON. I agree with the Senator.

I have not had an opportunity to discuss this matter with many of the voters in Oklahoma. In fact, these figures are very recent. But I think I can sense some of the frustration and perhaps even anger that is going to be fairly widespread in my State when they realize that, because of the working of the system we have, they are going to be about 12 percent disenfranchised as a result of the electoral college.

I might say to the Senator from Tennessee, I do not know what his observation has been, but in my State many polls have been taken, and certainly in the many conversations I have had with the voters, they show me that among the populations of the smaller States such as Oklahoma, the electoral college system is not understood and is not popular. The voters generally greatly prefer to go to the direct vote system, even though some of the politicians try to make it appear that they are being helped by the present system. I feel that the voters generally are willing to be treated as equals, that they do not expect any real or suggested advantages, and that at least in our State the direct vote for President is the way the voters prefer to see any changes brought about. I doubt strongly that the voters would like to see us merely amend the electoral college system. They feel that the time has come for a direct vote for President as it was changed in 1911 so that the people could vote directly for their Senators.

Mr. BAKER. I entirely agree and commend the Senator from Oklahoma for a perceptive observation as to the attitude of the public generally toward the electoral college system. I agree with him. I think the same situation pertains in my State of Tennessee. As a matter of fact, I would hazard the guess that many people in the United States think that they vote for their President and are not aware of the fact that the system prohibits anyone from voting for the President but rather for a slate of electors. The disillusionment I found in some quarters when this point was made is real and substantial and constitutes a hazard to the respect and support that representative government must have if it is to function properly.

The Senator from Oklahoma pointed out that he was, at one time, the national campaign manager for President Nixon before he relinquished that post in order to mount his own campaign for the U.S. Senate. I remember his early and effective organizational ability for our President. I know of the high esteem and respect in which he is held by President Nixon. I do not speak for the junior Senator from Oklahoma and neither for the President, but I would speculate that the fact the President is strongly in favor of electoral reform in this manner, and the fact that the junior Senator from Oklahoma is such an effective advocate of this proposal on the floor of the Senate, is not coincidental.

Mr. BELLMON. I might say, in reply to my good friend from Tennessee, that the voters in Oklahoma became incensed as a result of the 1960 incident in which one of the Republican electors, Henry Erwin of Bartlesville, who had been elected an elector on the assumption he was going to cast his electoral vote for candidate Nixon, actually cast his vote for Harry F. Byrd. Since then, the Republican voters in our State who thought they had cast their votes for candidate Nixon felt that was an absolute violation of trust, as they felt they were, as the Senator said, voting directly for the candidate of their choice; yet when it became clear to them that they had not done so, that the person in whom they had placed their trust had violated that trust, they were incensed.

At that time, I was serving as Republican State chairman, and we had a great deal of correspondence over that incident and many confrontations with irate citizens who began to demand immediately that the system be changed. That was the point at which my interest in the electoral college system was first kindled, and I have become more interested in this problem since that time.

The State legislature of Oklahoma, as a result of that incident, changed the law so that there will probably not be a repeat of that situation ever again in our State, but there is still the danger that if one of the parties who gains the most electoral votes should lose his life before he is sworn in, the electors would have a completely free hand to choose any candidate they wished to be President of the United States. That is certainly not going to be that way if we go into the direct vote system.

There are many other flaws, Mr. President, in the electoral college system that will be brought out during debate, and I hope to have further comment on that in the future.

I ask unanimous consent to have printed in the RECORD, Mr. President, a table showing the number of appearances candidates Nixon and Humphrey made in each State of the Union during the 1968 campaign.

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

SCHEDULE OF CANDIDATE APPEARANCES[1] BY STATES, 1968 CAMPAIGN (SEPT. 3 TO NOV. 3, 1968)

	Nixon	Humphrey	Total
Alabama	10		0
Alaska	3		0
Arizona	5		0
Arkansas	6		0
California	40	4	3	7
Colorado	6	1	1	2
Connecticut	8	1	1	2
Delaware	3		1	1
Florida	14	2	1	3
Georgia	12	2		2
Hawaii	4			0
Idaho	4	1		1
Illinois	26	4	3	7
Indiana	13	1	1	2
Iowa	9	1		1
Kansas	7			0
Kentucky	9	1	1	2
Louisiana	10	1		1
Maine	4		1	1
Maryland	10			0
Massachusetts	14	1	2	3
Michigan	21	4	3	7
Minnesota	10	2		2
Mississippi	7			0
Missouri	12	3	1	4
Montana	4			0
Nebraska	5			0
Nevada	3			0
New Hampshire	4			0
New Jersey	17	2	2	4
New Mexico	4			0
New York	43	6	9	15
North Carolina	13	1		1
North Dakota	4	1		1
Ohio	26	4	4	8
Oklahoma	8	1	1	2
Oregon	6		1	1
Pennsylvania	29	6	4	10
Rhode Island	4			0
South Carolina	8	1		1
South Dakota	4		1	1
Tennessee	11	2	1	3
Texas	25	3	2	5
Utah	4	1	1	2
Vermont	3			0
Virginia	12	1		1
Washington	9	1	1	2
West Virginia	7		1	1
Wisconsin	12	1		1
Wyoming	3			0
District of Columbia	3			

[1] 16 States not visited by either candidate—with 82 electoral votes, ranging from 3 to 10.

Mr. BAYH. Mr. President, one further observation for the record, if I may. The Senator from Oklahoma described his experience in Oklahoma in 1960, concerning the truant or the errant elector and noted that subsequently the State Legislature of Oklahoma attempted to deal with that problem.

Several years ago, I recall a Supreme Court case, Ray against Blair, in which a candidate exacted a pledge from an elector. But the Court held that there was no way it could be enforced because of the freedom given by the Constitution to the elector.

I think the concern of the Senator from Oklahoma is evidenced by his leadership in our efforts to try to provide direct election for the people of this country of their President. The experience we all had here in January, on the opening day of the Senate in 1969, in which we had the Dr. Bailey incident, the errant elector in North Carolina, led me to believe that this whole issue is very much alive and has not been laid to rest. There is no way it can be laid to rest except to proceed with adoption and, hopefully, the ratification of Senate Joint Resolution 1.

Now, Mr. President, if I could have the attention of the Senator from Alabama (Mr. ALLEN) who, I think, perhaps, has inherited the mantle of the opposition here, for the time being——

Mr. ALLEN. I am delighted to yield to the Senator from Indiana.

Mr. BAYH. I should like to pose this question because, I understand, the Senator from Nebraska would desire to proceed to other business now, and perhaps the majority leader would as well. But I should like to know whether those in opposition have any idea as to when we would be prepared to put this issue to a vote.

I feel that it has been discussed and

covered rather well, and I am prepared at this moment to go on to the next legislative step. Of course, we do not want to rush into this when some Senators have not been heard.

Therefore, would the Senator from Alabama care to hazard an opinion on this matter?

Mr. ALLEN. I notice on the wire this afternoon that the Senate Democratic leadership and committee chairmen decided today "to shoot for adjournment October 15 without ditching any major legislation. Senate Majority Leader MANSFIELD said it would take the unanimous cooperation of all 100 Senators and added that is always something difficult to do. The majority leader and the chairmen set a tentative timetable for each piece of legislation which MANSFIELD said will make it possible for the Senate to complete its work by mid-October."

So I do not know what tentative schedule has been set by the majority leader. The junior Senator from Alabama would state that he is not sitting in for the majority leader. He would have thought, since the distinguished Senator from Indiana (Mr. BAYH) has been occupying that chair, he himself was sitting in for the majority leader at this time.

Mr. BAYH. It is difficult for me fully to occupy the chair of the majority leader but I am certain that I am accurate in suggesting that the majority leader would be willing to support the motion which the Senator from Indiana is prepared to make now, that we go to third reading, if the Senator from Alabama is prepared not to object to such a motion.

Mr. ALLEN. The Senator from Alabama notes that in the committee report itself there is a suggested amendment by the distinguished Senator from Michigan (Mr. GRIFFIN) and the distinguished Senator from Maryland (Mr. TYDINGS). Certainly the junior Senator from Alabama would not want to cut them off from their right to offer an amendment.

Also, the district plan is embraced in a proposed amendment to the resolution. The proportional plan will probably be offered as an amendment and also the possible planned revising of the functions and setup of the present electoral college.

So, the junior Senator from Alabama feels sure that the distinguished Senator from Indiana would not want to cut off amendments, which moving the resolution to third reading at this time would do.

Mr. BAYH. Mr. President, I would not want to cut off amendments. The Senator from Alabama was desirous of knowing the opinion of the majority leader.

The judgment of the Senator from Indiana is that the majority leader probably would not support any of the amendments that the Senator from Alabama has just mentioned.

I was hoping, inasmuch as many of our colleagues have other obligations and the senior Senator from Tennessee and possibly other Senators have important appointments with constituents, that it would be helpful in advising our colleagues who are not present if we can suggest a timetable. I would hope that maybe tomorrow or by next week we would make the maximum effort to dispose of all amendments. I would not want to prevent the offering of any amendments. However, the quicker we can get to them the quicker the Senate can work its will.

Mr. ALLEN. Mr. President, the junior Senator from Alabama has no amendment which he wishes to offer. He does feel, though, that the right of Senators who do have amendments to offer them should not be cut off.

All that the junior Senator from Alabama could suggest is that the Senator from Indiana, if he desires to make a unanimous-consent request, should do so, and then the membership present could decide whether they wished to give unanimous consent to the request.

Mr. BAYH. Mr. President, the Senator from Indiana does not want to be arbitrary in any way about this matter.

It is the recollection of the Senator from Indiana that it is the responsibility of those who have amendments to be prepared to offer them. Since the Senator from Indiana has no such amendments, he is hardly in a position to offer amendments for other Senators.

I feel charged with the responsibility of expediting the consideration of this measure as much as possible.

Mr. ALLEN. Mr. President, the junior Senator from Alabama does not have authority to speak for any other Senators. He just happens to be here at this time to speak for himself and the people he represents.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent, under the informal agreement made, that the pending business be laid aside temporarily until after the conclusion of morning business tomorrow.

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

HEART DISEASE, CANCER, STROKE, AND KIDNEY DISEASE AMENDMENTS OF 1970

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of Calendar 1100, S. 3355.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: A bill (S. 3355) to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training and demonstrations in the fields of heart disease, cancer, stroke, and other major diseases and conditions, 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 Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

TITLE I—AMENDMENTS TO TITLE IX OF THE PUBLIC HEALTH SERVICE ACT

SEC. 101. This title may be cited as the "Heart Disease, Cancer, Stroke, and Kidney Disease Amendment of 1970".

SEC. 102. (a) Section 900(a) of the Public Health Service Act is amended—

(1) by inserting "and contracts" immediately after "grants";

(2) by striking out "related demonstrations" and inserting in lieu thereof "demonstrations";

(3) by striking out "and related diseases" and inserting in lieu thereof "kidney disease, and other major diseases and conditions".

(b) Section 900(b) of such Act is amended by striking out "diagnosis and treatment of these diseases" and inserting in lieu thereof "prevention, diagnosis, and treatment (including treatment through home health care) of these diseases and conditions, and in the rehabilitation (including rehabilitation through home health care) of individuals suffering from these diseases and conditions".

(c) Section 900 of such Act is further amended by—

(1) striking out "and" at the end of subsection (b) thereof;

(2) redesignating subsection (c) thereof as subsection (d); and

(3) inserting after subsection (b) thereof a new subsection (c) which reads as follows:

"(c) to promote and foster regional cooperation among health care institutions and providers so as to strengthen and improve primary care and the relationship between specialized and primary care; and".

(d) Section 900(d) of such Act (as redesignated by subsection (c)(2) of this section) is amended by striking out "the health manpower and facilities to the Nation" and inserting in lieu thereof "the quality and enhance the capacity of the health manpower and facilities available to the Nation and to improve health services for persons residing in areas with limited health services".

SEC. 103. (a)(1) The first sentence of section 901(a) of such Act is amended by striking out "and $120,000,000 for the next fiscal year, for grants" and inserting in lieu thereof "$120,000,000 for the fiscal year ending June 30, 1970, $150,000,000 for the fiscal year ending June 30, 1971, $200,000,000 for the fiscal year ending June 30, 1972, $250,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years, for grants".

(2) The second sentence of section 901(a) of such Act is amended to read as follows: "Of the sums appropriated under this section for the fiscal year ending June 30, 1971, not more than $15,000,000 shall be available for activities in the field of kidney disease."

(b) Section 901 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) At the request of any recipient of a grant under this title, the payments to such recipient may be reduced by the fair market value of any equipment, supplies, or services furnished to such recipient and by the amount of the pay, allowance, traveling expenses, and any other costs in connection

with the detail of an officer or employee to the recipient when such furnishing of such detail, as the case may be, is for the convenience of and at the request of such recipient and for the purpose of carrying out the regional medical program to which the grant or contract under this title is made."

SEC. 104. (a) Section 902(a) of such Act is amended by striking out "training, diagnosis, and treatment relating to heart disease, cancer, or stroke, and at the option of the applicant, related disease or diseases" and inserting in lieu thereof "training, prevention, diagnosis, treatment, and rehabilitation (including home health care) relating to heart disease, cancer, stroke, or kidney disease, and, at the option of the applicant, other major diseases or conditions".

(b) Section 902(a) of such Act (as amended by subsection (a) of this section) is further amended, in the part thereof which precedes clause (1) thereof, by—

(1) inserting "(i)" immediately after "engaged"; and

(2) inserting immediately before the semicolon the following: ", or at the option of applicant, (ii) in developing and demonstrating systems for organizing and delivering medical care, but only (I) with respect to an applicant which is engaged in one or more of the activities referred to in subclause (i), and (II) for any period of time, if prior to the commencement of such period the applicant has for a reasonable period of time engaged in one or more of the activities referred to in subclause (i)".

SEC. 105. Section 902(f) is amended by striking out "includes" and inserting in lieu thereof "means new construction of facilities for demonstrations, research, and training when necessary to carry out regional medical programs,".

SEC. 106. Section 903(b)(4) of such Act is amended—

(1) by striking out "voluntary health agencies, and" and inserting in lieu thereof "voluntary health agencies, official health and planning agencies, and"; and

(2) by inserting immediately after "under the program", where it first appears therein, the following: "(including as an ex officio member, if there is located in such region one or more hospitals or other health facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such advisory group as the representative of the hospitals or other health care facilities of such Administration which are located in such region)"; and

(3) by striking out "need for the services provided under the program" and inserting in lieu thereof "need for and financing of the services provided under the program, and which advisory group shall be sufficient in number to insure adequate community representation (as determined by the Secretary)".

SEC. 107. That part of the second sentence of section 904(b) of the Public Health Service Act preceding paragraph (1) is amended by striking out "section 903(b)(4) and" and inserting in lieu thereof the following: "section 903(b)(4), if opportunity has been provided, prior to such recommendation, for consideration of the application by each public or nonprofit private agency or organization which has the responsibility for development of a comprehensive regional, metropolitan, or other area plan referred to in section 314(b) covering any area in which the regional medical program for which the application is made will be located, and if the application".

SEC. 108. Section 905(a) of such Act is amended—

(1) by striking out "The Surgeon General, with the approval of the Secretary," and inserting in lieu thereof "The Secretary";

(2) by striking out "the Surgeon General" and inserting in lieu thereof "the Assistant Secretary of Health, Education, and Welfare for Health and Scientific Affairs";

(3) by inserting immediately after "chairman," the following: "the Chief Medical Director of the Veterans' Administration who shall be an ex officio member,";

(4) by inserting "health care administration," immediately after "the medical sciences,";

(5) by striking out "study, diagnosis, or treatment of cancer" and inserting in lieu thereof "study of or health care for persons suffering from cancer"; and

(6) by striking out "and one shall be outstanding in the study, diagnosis, or treatment of stroke" and inserting in lieu thereof "one shall be outstanding in the study of or health care for persons suffering from stroke, one shall be outstanding in the study of or care for persons suffering from kidney disease, and three shall be members of the public".

SEC. 109. Section 907 of such Act is amended by striking out "or strike," and inserting in lieu thereof "stroke, or kidney disease,".

SEC. 110. Section 909(a) of such Act is amended by inserting "or contract" after "grant", each place it appears therein.

SEC. 111. (a) Section 910 of such Act is amended to read as follows:

"SEC. 910. (a) To facilitate interregional cooperation, and develop improved national capability for delivery of health services, the Secretary is authorized to utilize funds appropriated under this title to make grants to public or nonprofit private agencies or institutions or combinations thereof and to contract for—

"(1) programs, services, and activities of substantial use to two or more regional medical programs;

"(2) development, trial, or demonstration of methods for control of heart disease, cancer, stroke, kidney disease, or other major disease or conditions;

"(3) the collection and study of epidemiologic data related to any of the diseases and conditions referred to in paragraph (2);

"(4) development of training specifically related to the prevention, diagnosis, or treatment of any of the diseases or conditions referred to in paragraph (2), or to the rehabilitation of persons suffering from any of such diseases or conditions; and for continuing programs of such training where shortage of trained personnel would otherwise limit application of knowledge and skills important to the control of any of such diseases or conditions; and

"(5) the conduct of cooperative clinical field trials.

"(b) The Secretary is authorized to assist in meeting the costs of special projects for improving, or developing new means for, the delivery of health services concerned with any of the diseases or conditions with which this title is concerned.

"(c) The Secretary is authorized to support research, studies, investigations, training, and demonstrations designed more effectively to utilize health personnel in the delivery of health services."

(d) The heading to section 910 of such Act is amended to read as follows:

"MULTIPROGRAM SERVICES".

SEC. 112. The heading to title IX of such Act is amended by striking out "STROKE, AND RELATED DISEASES" and inserting in lieu thereof "STROKE, KIDNEY DISEASE, AND OTHER MAJOR DISEASES AND CONDITIONS".

SEC. 113. Sections 902(a), 903(a), 903(b), 904(a), 904(b), 905(b), 905(d), 906, 907, and 909(a) (as amended by the preceding provisions of this title) are each further amended by striking out "Surgeon General" each place it appears therein, and inserting in lieu thereof "Secretary".

TITLE II—AMENDMENTS TO TITLE III OF THE PUBLIC HEALTH SERVICE ACT

PART A—RESEARCH AND DEMONSTRATIONS RELATING TO HEALTH FACILITIES AND SERVICES

SEC. 201. (a)(1) Section 304(a) of the Public Health Service Act is amended—

(A) by inserting "(1)" immediately after "SEC. 304. (a)".

(B) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively; and

(C) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively.

(2) Section 304(b) of such Act is amended—

(A) by striking out "(b)" and inserting in lieu thereof "(2)"; and

(B) by striking out "this section" each place it appears therein and inserting in lieu thereof "this subsection".

(3) Section 304(c) of such Act is amended—

(A) by striking out "(c)" and inserting in lieu thereof "(3)"; and

(B) by striking out "this section" each place it appears therein and inserting in lieu thereof "this subsection".

(b) Section 304 of such Act is further amended by adding after the provision thereof redesignated as paragraph (3) by subsection (a)(3)(A) of this section the following new subsection:

"Systems Analysis of Alternative National Health Care Plans

"(b)(1)(A) The Secretary shall develop, through utilization of the systems analysis method, alternative plans for health care systems designed adequately to meet the health needs of the American people. For purposes of the preceding sentence, the systems analysis method means the analytical method by which alternative means of obtaining a desired result or goal is associated with the costs and benefits involved.

"(B) The Secretary shall complete the development of the alternative plans referred to in subparagraph (A), within such period as may be necessary to enable him to submit to the Congress not later than June 30, 1971, a report thereon which shall describe each plan so developed in terms of—

"(i) the number of people who would be covered under the plan;

"(ii) the kind and type of health care which would be covered under the plan;

"(iii) the cost involved in carrying out the plan and how such costs would be financed;

"(iv) the number of additional physicians and other health care personnel and the number and type of health care facilities needed to enable the plan to become fully effective;

"(v) the new and improved methods, if any, of delivery of health care services which would be developed in order to effectuate the plan;

"(vi) the accessibility of the benefits of such plan to various socioeconomic classes of persons;

"(vii) the relative effectiveness and efficiency of such plan as compared to existing means of financing and delivering health care; and

"(viii) the legislative, administrative, and other actions which would be necessary to implement the plan.

"(C) In order to assure that the advice and services of experts in the various fields concerned will be obtained in the alternative plans authorized by this paragraph and that the purposes of this paragraph will fully be carried out—

"(i) the Secretary shall utilize, whenever appropriate, personnel from the various agencies, bureaus, and other departmental subdivisions of the Department of Health, Education, and Welfare;

"(ii) the Secretary is authorized, with the

consent of the head of the department or agency involved, to utilize (on a reimbursable basis) the personnel and other resources of other departments and agencies of the Federal Government; and

"(iii) the Secretary is authorized to consult with appropriate State and local public agencies, private organizations, and individuals.

"Cost and Coverage Report on Existing Legislative Proposals

"(2)(A) The Secretary shall, in accordance with this paragraph, conduct a study of each legislative proposal which is introduced in the Senate or the House of Representatives during the Ninety-first Congress, and which undertakes to establish a national health insurance plan or similar plan designed to meet the needs of health insurance or for health services of all or the overwhelming majority of the people of the United States.

"(B) In conducting such study with respect to each such legislative proposal, the Secretary shall evaluate and analyze such proposal with a view to determining—

"(i) the costs of carrying out the proposal; and

"(ii) the adequacy of the proposal in terms of (I) the portion of the population covered by the proposal, (II) the type health care provided, paid for, or insured against under the proposal, (III) whether, and if so, to what extent, the proposal provides for the development of new and improved methods for the delivery of health care and services.

"(C) Not later than December 31, 1970, the Secretary shall submit to the Congress a report on each legislative proposal which he has been directed to study under this paragraph, together with an analysis and evaluation of such proposal."

(c) Subsection (d) of section 304 of such Act is hereby redesignated as subsection (c) and is amended to read as follows:

"(c)(1) There are authorized to be appropriated for payment of grants or under contracts under subsection (a), and for purposes of carrying out the provisions of subsection (b), $84,000,000 for the fiscal year ending June 30, 1971 (of which not less than $4,000,000 shall be available only for purposes of carrying out the provisions of subsection (b)), $85,000,000 for the fiscal year ending June 30, 1972, $94,000,000 for the fiscal year ending June 30, 1973, $110,000,000 for the fiscal year ending June 30, 1974, and $130,000,000 for the fiscal year ending June 30, 1975.

"(2) In addition to the funds authorized to be appropriated under paragraph (1) to carry out the provisions of subsection (b) there are hereby authorized to be appropriated to carry out such provisions for each fiscal year such sums as may be necessary."

(d) The amendments made by subsection (c) of this section shall be effective only with respect to fiscal years ending after June 30, 1970.

SEC. 202. That provision of section 304 of the Public Health Service Act redesignated by section 201(a) of this Act as paragraph (3) of subsection (a) is further amended—

(1) by inserting "(A)" immediately after "(3)"; and

(2) by adding after and below such provision the following new subparagraph:

"(B) The amounts otherwise payable to any person under a grant or contract made under this subsection shall be reduced by—

"(i) amounts equal to the fair market value of any equipment or supplies furnished to such person by the Secretary for the purpose of carrying out the project with respect to which such grant or contract is made, and

"(ii) amounts equal to the pay, allowances, traveling expenses, and related personnel expenses attributable to the performance of services by an officer or employee of the Government in connection with such project, if such officer or employee was assigned or detailed by the Secretary to perform such services,

but only if such person requested the Secretary to furnish such equipment or supplies, or such services, as the case may be."

SEC. 203. That provision of section 304 of the Public Health Service Act redesignated by section 201(a) of this Act as paragraph (1) of subsection (a) is further amended by—

(1) striking out the period at the end thereof and inserting in lieu thereof ", and"; and

(2) adding after and below the clause thereof redesignated by such section 201(a) as clause (iii) the following new clauses:

"(iv) projects for research, experiments, and demonstrations dealing with the effective combination or coordination of public, private, or combined public-private methods or systems for the delivery of health services at regional, State, or local levels, and

"(v) projects for research and demonstrations in the provision of home health services."

PART B—NATIONAL HEALTH SURVEYS AND STUDIES

SEC. 210. (a)(1) Clause (1) of section 305(a) of the Public Health Service Act is amended—

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

(B) by inserting after the semicolon at the end of subclause (E) the following: "(F) health care resources; (G) environmental and social health hazards; and (H) family formation, growth, and dissolution;".

(2) Such section 305(a) is further amended by adding at the end thereof the following new sentence: "Except to the extent otherwise provided by regulations of the Secretary, no information obtained as a result of surveys and studies conducted persuant to this subsection shall be disclosed or used for any purpose other than the statistical purposes for which it was supplied; and no such information relating to any particular establishment or person shall be published in a form which identifies such establishment or person unless such establishment or person consents to the publication of such information in such form."

(b) Section 305 of such Act is further amended—

(1) by redesignating subsections (b), (c), and (d) thereof as subsections (c), (d), and (e), respectively; and

(2) by inserting immediately after subsection (a) thereof a new subsection (b) as follows:

"(b) The Secretary is authorized, directly or by contract, to conduct research and demonstrations, and to make evaluations, relating to the design and implementation of a cooperative system for producing comparable and uniform health information and statistics at the Federal, State, and local levels."

PART C—GRANTS TO STATES FOR COMPREHENSIVE STATE HEALTH PLANNING

SEC. 220. (a)(1) The first sentence of section 314(a)(1) of the Public Health Service Act is amended by striking out "June 30, 1970" and inserting in lieu thereof "June 30, 1975".

(2) The second sentence of such section 314(a)(1) is amended by striking out "and $15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof the following: "$15,000,000 for the fiscal year ending June 30, 1970, $15,000,000 for the fiscal year ending June 30, 1971, $17,000,000 for the fiscal year ending June 30, 1972, $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975".

(b) Section 314(a)(2)(B) of such Act is amended by striking out "State and local agencies" and inserting in lieu thereof "Federal, State, and local agencies (including as an ex officio member, if there is located in such State one or more hospitals or other health care facilities of the Veterans' Administration, the individual whom the Administrator of Veterans' Affairs shall have designated to serve on such council as the representative of the hospitals or other health care facilities of such Administration which are located in such State)".

(c) Section 314(a)(2)(B) of such Act (as amended by subsection (b) of this section) is further amended by, inserting "(including representation of the regional medical program or programs within the State)" immediately after "concerned with health".

(d) Section 314(a)(2)(C) of such Act is amended by inserting, "and including home health care" immediately after "private".

PART D—PROJECT GRANTS FOR AREAWIDE HEALTH PLANNING

SEC. 230. Section 314(b) of the Public Health Service Act is amended—

(a) by striking out, in the first sentence thereof, "June 30, 1970" and inserting in lieu thereof "June 30, 1975";

(b) by inserting after the word "services" the second place it appears therein, the phrase " and including the provision of such services through home health care";

(c) by striking out, in the second sentence thereof, "and $15,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof the following: "$15,000,000 for the fiscal year ending June 30, 1970, $20,000,000 for the fiscal year ending June 30, 1971, $30,000,000 for the fiscal year ending June 30, 1972, $40,000,000 for the fiscal year ending June 30, 1973, $50,000,000 for the fiscal year ending June 30, 1974, and $60,000,000 for the fiscal year ending June 30, 1975";

(d) by inserting "(1)(A)" immediately after "(b)"; and

(e) by adding after and below the existing language contained therein the following:

"(B) Project grants may be made by the Secretary under subparagraph (A) to the State agency administering or supervising the administration of the State plan approved under subsection (a) with respect to a particular region or area, but only if (i) no application for such a grant with respect to such region or area has been filed by any other agency or organization qualified to receive such a grant, and (ii) such State agency certifies, and the Secretary finds, that ample opportunity has been afforded to qualified agencies and organizations to file application for such a grant with respect to such region or area and that it is improbable that, in the foreseeable future, any agency or organization which is qualified for such a grant will file application therefor.

"(2) In order to be approved under this subsection, an application for a grant under this subsection must contain or be supported by reasonable assurances that there has been or will be established, in or for the area with respect to which such grant is sought, an areawide health planning council. The membership of such council shall include representatives of public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health (including representatives of the interests of local government, of the regional medical program for such area, and of consumers of health services). A majority of the members of such council shall consist of representatives of consumers of health services."

PART E—PROJECT GRANTS FOR TRAINING, STUDIES AND DEMONSTRATIONS

SEC. 240. Section 314(c) of the Public Health Service Act is amended—

(a) by striking out, in the first sentence thereof, "June 30, 1970" and inserting in lieu thereof "June 30, 1975"; and

(b) by striking out, in the second sentence thereof, "and $7,500,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof the following: "$7,500,000 for the fiscal year ending June 30, 1970, $8,000,000 for the fiscal year ending June 30, 1971, $9,000,000 for the fiscal year ending June 30, 1972, $10,000,000 for the fiscal year ending June 30, 1973, $11,000,000 for the fiscal year ending June 30, 1974, and $12,000,000 for the fiscal year ending June 30, 1975".

PART F—GRANTS FOR COMPREHENSIVE PUBLIC SERVICES

SEC. 250. Section 314(d)(1) of the Public Health Service Act is amended by striking out "and $100,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "$100,000,000 for the fiscal year ending June 30, 1970, $130,000,00 for the fiscal year ending June 30, 1971, $145,000,000 for the fiscal year ending June 30, 1972, $165,000,000 for the fiscal year ending June 30, 1973, $180,000,000 for the fiscal year ending June 30, 1974, and $200,000,000 for the fiscal year ending June 30, 1975".

PART G—PROJECT GRANTS FOR HEALTH SERVICES DEVELOPMENT

SEC. 260. (a)(1) The first sentence of 314 (e) of the Public Health Service Act is amended by striking out "and $80,000,000 for the fiscal year ending June 30, 1970" and inserting in lieu thereof "$80,000,000 for the fiscal year ending June 30, 1970, $109,500,000 for the fiscal year ending June 30, 1971, $135,000,000 for the fiscal year ending June 30, 1972, $157,000,000 for the fiscal year ending June 30, 1973, $186,000,000 for the fiscal year ending June 30, 1974, and $213,000,000 for the fiscal year ending June 30, 1975".

(2) The first sentence of such section 314 (e) is further amended by inserting "(including equity requirements of and amortization of loans for facilities)" immediately after "cost".

(b)(1) The second sentence of such section 314(e) is amended to read as follows: "Grants under this subsection shall be made only upon applications therefor which are approved by the Secretary, and the Secretary may not approve any application for any grant under this subsection with respect to any area unless he is satisfied (on the basis of evidence contained in or submitted in connection with such application) that reasonable opportunity for review of and comment on such application has been provided (i) to the agency or organization referred to in subsection (b) which is responsible for the development, for such area, of a comprehensive regional, metropolitan, or other area plans for coordination of existing and planned health services, or (ii) if there is no such agency or organization, to such other public or nonprofit private agency (if any) which is determined (in accordance with regulations of the Secretary) to be performing for the area with respect to which such grant is requested, health planning functions similar to those performed by an agency or organization referred to in subsection (b) which is responsible for the development of comprehensive regional, metropolitan, or other area plans for coordination of existing and planned health services.

(2) The amendment made by paragraph (1) shall be effective with respect to grants under section 314(e) of the Public Health Service Act which are made after the date of enactment of this Act.

PART H—ADMINISTRATION OF GRANTS IN CERTAIN MULTIGRANT PROJECTS

SEC. 270. Part A of title III of the Public Health Service Act is amended by adding at the end thereof the following new section:

"SEC. 310a. For the purpose of facilitating the administration of, and expediting the carrying out of the purposes of, the programs established by title IX, and sections 304, 314(a), 314(b), 314(c), 314(d), and 314 (e) of this Act in situations in which grants are sought or made under two or more of such programs with respect to a single project, the Secretary is authorized to promulgate regulations—

"(1) under which the administrative functions under such programs with respect to such project will be performed by a single administrative unit which is the administrative unit charged with the administration of any of such programs or is the administrative unit charged with the supervision of two or more of such programs;

"(2) designed to reduce the number of applications, reports, and other materials required under such programs to be submitted with respect to such project, and otherwise to simplify, consolidate, and make uniform (to the extent feasible), the data and information required to be contained in such applications, reports, and other materials; and

"(3) under which inconsistent or duplicative requirements imposed by such programs will be revised and made uniform with respect to such project;

except that nothing in this section shall be construed to authorize the Secretary to waive or suspend, with respect to any such project, any requirement with respect to any of such programs if such requirement is imposed by law or by any regulation required by law."

PART I—ANNUAL REPORT

SEC. 280. Part A of title III of the Public Health Service Act is further amended by adding after section 310a thereof (as added by section 270 of this Act) the following new section:

"310b. On or before January 1 of each year, the Secretary shall transmit to the Congress a report of the activities carried on under the provisions of title IX of this Act and sections 304, 305, 314(a), 314(b), 314(c), 314(d), and 314(e) of this title together with (1) an evaluation of the effectiveness of such activities in improving the efficiency and effectiveness of the research, planning, and delivery of health services in carrying out the purposes for which such provisions were enacted, (2) a statement of the relationship between Federal financing and financing from other sources of the activities undertaken pursuant to such provisions (including the possibilities for more efficient support of such activities through use of alternate sources of financng after an initial period of support under such provisions), and (3) such recommendations with respect to such provisions as he deems appropriate.

TITLE III—NATIONAL COUNCIL ON HEALTH POLICY

SEC. 301. (a) There is hereby established, in the Executive Office of the President, a National Council on Health Policy (hereinafter referred to as the "Council"), which shall consist of three members who shall be of distinguished competence in the field of health or any field related thereto, and who are not otherwise in the employ of the United States. Members of the Council shall be appointed by the President, to serve at his pleasure, by and with the advice and consent of the Senate. The President shall designate one of the members of the Council to serve as Chairman.

(b) Each member of the Council shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was oppointed shall be appointed for the remainder of such term, and except that the terms of office of the members first taking office shall expire, as designated by the President at the time of appointment, one at the end of the first year, one at the end of the second year, and one at the end of the third year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

(c) Members of the Council shall serve full time, and the Chairman of the Council shall be compensated at the rate provided for level II of the Executive Schedule (5 U.S.C. 5313). The other members of the Council shall be compensated at the rate provided for level IV of the Executive Schedule (5 U.S.C. 5315).

SEC. 302. (a) It shall be the duty and function of the Council to conduct studies, research, and investigations for the purpose of setting goals for a national health policy for the United States and of making recommendations to the President and to the Congress of various means whereby such goals may be attained.

(b) In carrying out its duty and function, the Council shall—

(1) conduct a continuous evaluation of policies and programs related to the Nation's health (including policies and programs related to disaster planning) and make recommendations for the revision, expansion, and improvement of such policies and programs;

(2) initiate, study, and develop measures designed to assure the provision of adequate manpower, services, and facilities for the Nation's health, including the mobilization, allocation, and utilization of such manpower, services, and facilities;

(3) evaluate studies and surveys made by or concerned with departments and agencies of the Federal Government in relation to the Nation's health needs and resources;

(4) advise and consult with departments and agencies of the Federal Government on policies and programs concerned with health services, manpower, and facilities; and

(5) upon the request of the President with respect to any matter concerning the Nation's health, submit to the President a report containing such information, data, or recommendations on such matters as the President may indicate in such request.

(c) The Council shall submit annually to the President and the Congress a report of its activities together with a statement of the national health policy and goals established by it and its recommendations of measures designed for the attainment of such goals.

SEC. 303. The various departments and agencies of the Federal Government shall cooperate with the Council in carrying out its responsibilities.

SEC. 304. The Council shall have authority to employ such professional, technical, and clerical staff as may be required to carry out its duties and functions. In addition, the Council may employ and fix the compensation of such experts and consultants as may be necessary to carry out its functions, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof).

SEC. 305. For the purpose of carrying out the provisions of this title, there is authorized to be appropriated $300,000 for the fiscal year ending June 30, 1971, $700,000 for the fiscal year ending June 30, 1972, and $1,000,000 for each fiscal year after the fiscal year which ends June 30, 1972.

TITLE IV—AUTHORITY FOR GROUP PRACTICE

SEC. 401. (a) The Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, authorize any carrier, which is a party to a contract entered into under chapter 89 of title 5, United States Code (relating to health benefits for Federal employees), or under the Retired Federal Employees Health Benefits Act, or which participates in the carrying out of any such contract, to issue in any State contracts entitling any person as a beneficiary to

receive comprehensive medical services (as defined in subsection (b)) from a group practice unit or organization (as defined in subsection (c)) with which such carrier has contracted or otherwise arranged for the provision of such services.

(b) As used in this section, the term "comprehensive medical services" means comprehensive preventive, diagnostic, and therapeutic medical services (as defined in regulations of the Secretary), furnished on a prepaid basis; and may include, at the option of a carrier, such other health services including mental health services, and equipment and supplies, furnished on such terms and conditions with respect to copayment and other matters, as may be authorized in regulations of the Secretary.

(c) As used in this section—

(1) The term "group practice unit or organization" means a nonprofit agency, cooperative, or other organization undertaking to provide, through direct employment of, or other arrangements with the members of a medical group, comprehensive medical services (or such services and other health services) to members, subscribers, or other persons protected under contracts of carriers.

(2) The term "medical group" means a partnership or other association or group of persons who are licensed to practice medicine in a State (or of such persons and persons licensed to practice dentistry or optometry) who (A) as their principal professional activity and as a group responsibility, engage in the coordinated practice of their profession primarily in one or more group practice facilities, (B) pool their income from practice as members of the group and distribute it among themselves according to a prearranged plan, or enter into an employment arrangement with a group practice unit or organization for the provision of their services, (C) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and professional, technical, and administrative staff, and (D) include within the group at least such professional personnel, and make available at least such health services, as may be specified in regulations of the Secretary.

(d) Nothing in this section shall preclude any State or State agency from regulating the amounts charged for contracts issued pursuant to subsection (a) or the manner of soliciting and issue such contracts, or from regulating any carrier issuing such contracts in any manner not inconsistent with the provisions of this section.

Mr. GRIFFIN. 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. YARBOROUGH. 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. YARBOROUGH. Mr. President, the proposed act now before the Senate, Senate bill 3355, is the Health Services Improvement Act of 1970. It is a bill to amend titles III and IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other major diseases and conditions, and for other purposes.

While we have had a number of health acts before the 91st Congress last year and this year, and will have others, this is one of the two most important health programs before the Congress this session.

This bill would make important additions to existing legislation relating to improved health statistical systems. This is in addition to extending the authorizations for regional medical programs and the comprehensive health planning and health services research and development.

This legislative extension is badly needed. As the distinguished Senator now presiding (Mr. SAXBE) knows, being a member of the full committee and having heard the discussion, the bill would establish a Council of Health Advisors and would encourage the group practice of medicine. It is a very far-reaching and comprehensive health bill.

TITLE I

The substantive authority for regional medical programs, comprehensive health planning and services and health services research and development expired last June 30. This 5-year extension is, therefore, essential, if we are to continue to make progress against this country's health care crisis.

Mr. President, I would like to briefly describe each of these programs as well as the other major amendments the committee is recommending.

Initially established in October 1965, as a result of the DeBakey Commission, the chairman of which was the famous heart surgeon, Dr. DeBakey, of Houston, Tex., the regional medical programs have developed regional cooperative arrangements among medical centers, hospitals, practicing physicians, voluntary and official health agencies, and other health interests and groups for the purpose of improving the quality of care for heart disease, cancer, and stroke.

Heart disease, cancer, and stroke are the major killers of the American people. In that order, they kill more Americans than any other disease.

During the extensive hearings on S. 3355, the Health Subcommittee of the Senate Labor and Public Welfare Committee was provided with evidence of substantial progress in implementing the concept and achieving the goals of regional medical programs.

Of the 55 regional medical programs established for planning programs during the first 2 years of the program, 54 are now operational. These 55 cover the entire country and all its people. The regions range in population from a few hundred thousand to as many as 20 million; they vary in area from several counties to several States; and the 55 reflect great differences, as well as similarities, in the nature and magnitude of their health resources and needs.

All, however, are characterized by a degree of local autonomy and decisionmaking that is unique among Federal health programs.

Let me repeat, it is unique among Federal health programs that each has a great deal of autonomy and decisionmaking power. Thus, each program has been encouraged to deal with the particular health needs of the region it serves. This has been possible because of the flexibility of the original law, the concept of regionalization it represented, its effective national administration, and, in the final analysis, the skill, motivation, and good judgment of those who are locally implementing the programs.

To achieve this, virtually all elements of the health care system—medical schools—which had a great influence—hospitals, academic and practicing physicians, dentists, members of all of the allied health professions, voluntary and public health organizations and agencies, and National, regional, State, and local government agencies—which historically were reticent to join together in such cooperative arrangements, were reached and convinced of both the uniqueness of regional medical programs and the need for this implementation. The extent to which this joining together under regional medical programs has been accomplished can be illustrated by the numbers of individuals and institutions involved. Over 10,000 hospital administrators and trustees, practicing physicians, medical center and medical school officials and faculty, and representatives of public and private agencies serve as members of regional planning committees and regional task forces and 330 local action groups.

In addition, over and above the working staffs of the 55 programs, 3,000 individuals are serving on RMP regional advisory groups in the various disciplines for these different areas. These individuals represent a total of some 6,300 health and health-related institutions, including all of the Nation's medical schools, hospitals, every State medical society, State and city health departments, voluntary health associations, other private and public agencies, and also consumer groups.

Coming to the bill itself, title I of the bill, in addition to extending regional medical programs for 5 years through June 30, 1975, and authorizing appropriations totaling $1.1 billion, includes the following legislative modifications:

The bill adds "kidney disease" and "other major diseases and conditions" to the original three—heart disease, cancer, and stroke—and provides that a maximum of $15 million of the amount appropriated in fiscal year 1971 be available for kidney disease activities. This broadened program authority will permit testing and evaluation methods for prevention and control at the community level, and support the organization and implementation of kidney disease programs on an interregional basis across the Nation. I would remind my colleagues that nearly 8 million persons in the United States are afflicted with kidney disease, of which about 60,000 progress to a terminal condition and death each year, if life-sustaining treatment is not available.

Mr. President, I would point out in that connection that with kidney disease, where a few years ago most cases progressing to that point would lead to a very terrible and painful death, now many people are saved, either through a kidney transplant operation or through the use of a dialysis machine. There are

not enough dialysis machines, and there is a terrible problem constantly facing the medical profession at the present time as to who shall receive the treatment and who shall not, and thus be condemned to certain death.

But the medical profession has progressed to the point where it has permitted some persons to go home and live a good number of years, perhaps even to their normal life expectancy. So this has been successful, Mr. President, not merely experimental, like the heart transplant operation. Both types of treatment have succeeded, the kidney transplant and the dialysis machine.

It would make explicit that prevention and rehabilitation—including home health care—as well as diagnosis and treatment, are clearly within the scope of the regional medical program.

In other words, it is not just a matter of treatment, but also of prevention and rehabilitation—prevention of the disease to begin with, and rehabilitation after recovery. We are broadening the coverage in this bill. It also emphasizes that regional medical programs must be concerned with strengthening and improving primary care and the relationship between specialized and primary care; and improving health services for persons residing in areas with limited health services.

It would promote increased cooperation and coordination with the comprehensive health planning program by providing for representation of official health and planning agencies on the regional advisory groups and, at the same time, RMP representation at the State and areawide comprehensive health planning councils.

Representation of the Veterans' Administration would similarly be required, though on an ex officio basis.

It also provides that before a regional advisory group may recommend approval of an operational grant, an opportunity must be provided for consideration of that application by the appropriate areawide comprehensive health planning agency. These changes are designed to encourage and accelerate the development of a practical working relationship between these programs along the lines that already have emerged in some regions and localities, but not in all.

The bill includes explicit contract authority for regional medical programs. This is especially important in relation to the expanded multiprogram services authority included in the bill. Not only would the authorization for interregional support activities of use to two or more regional medical programs be continued, but it would allow, for example, cooperative clinical field trials and demonstrations. Activities such as these are far more effectively accomplished by utilizing the contract mechanism.

Finally, S. 3355 adds authority for the new construction of facilities for demonstration, research, and training unique to regional medical programs. The need for limited construction of facilities specifically tailored to the purposes of the regional medical programs was clear as long ago as 1967, or within 2 years after the original law was passed. Those needs were documented in the 1967 "Report to the President and the Congress on RMP's." Those needs have not yet been met. They have in fact continued to increase, despite the action taken by Congress in 1967.

TITLE II

Title II of the bill extends and improves the legislative authorities for the comprehensive planning program, health services research and development programs, and health statistical activities. Title II would also permit in appropriate and limited circumstance, the joint administration of the grant programs covered in the bill, as well as require the Secretary of Health, Education, and Welfare to annually report to the Congress on the effectiveness of those programs.

We added to the bill the provision for the annual report to Congress so that Congress could, with its oversight authority, see that this money was being expeditiously and efficiently spent.

COMPREHENSIVE HEALTH PLANNING

S. 3355 extends and modifies the comprehensive health planning and services program.

When the Congress first enacted this legislation in 1966, it acknowledged the necessity for encouraging and assisting communities and States—working in concert—to take stock of their own health problems and resources and to determine the means best suited to their situations for solving problems.

The committee's bill would make several improvements in the comprehensive health planning program:

First. It would provide for representation on State and areawide planning groups by Veterans' Administration representatives—on an ex-officio basis—as well as including RMP representatives.

Second. It would make explicit the concern of comprehensive health planning agencies with home health care resources and services.

Third. In limited circumstances, it would permit project grants to State planning agencies for providing planning assistance to areas of that State which are not likely to have the resources to mount an areawide planning effort of their own. This was primarily to assist rural areas in a State with primarily small rural populations. This improvement will greatly assist rural areas, which otherwise would not have the resources to independently sustain an areawide planning effort.

Fourth. It would require the areawide planning agencies to comment upon applications for health services support under section 314(e) of the program, thereby fostering greater coordination.

Fifth. Lastly, with respect to the partnership program, it would authorize payments under section 314(e) for loan amortization and equity requirements on facilities. This provision will facilitate the planned transfer of certain neighborhood centers projects from OEO to HEW.

HEALTH STATISTICAL ACTIVITIES

The proposed amendments regarding health statistics in title II would change the National Health Survey provisions in section 305(a) of the Public Health Service Act to reflect the increasing demand for data regarding health care resources, environmental and social health hazards, and family information, growth, and dissolution, and would provide an assurance of confidentiality for information collected for survey purposes.

Most important, it would authorize the development and demonstration models of a cooperative Federal-State-local health statistics system. The Federal Government is now dependent upon State and local sources for many types of health statistics, principally in fields of births, deaths, health facilities, and manpower. On the other hand, local areas often rely on Federal statistical resources for information, which they should be obtaining for themselves in detail, that would permit adequate health planning and evaluation of program progress. The intent of this legislation is to permit research needed to develop a cooperative system in which each level of jurisdiction carries on those functions for which it has the greatest capability, with an interchange of statistical information of uniform quality and comparability, so that statistics will mean something and they will be understood in all areas of the country.

HEALTH SERVICES RESEARCH AND DEVELOPMENT

Title II also extends section 304 of the Public Health Services Act, which enables HEW to assist communities in improving their health services through research and development. Section 304 authorizes grants and contracts for research, development, demonstrations, and related training in all aspects and problems of the organization, delivery, and financing of health services.

Experiments may be conducted on the construction, organization, and operation of hospitals and other facilities, experimental automated equipment, new careers in health services and new methods of training health personnel, and on entire new systems for organizing, delivering and financing health services in communities. Under this authority, HEW has begun projects with the leaders of the health professions and institutions involving contract-supported research and development on the practical problems involved in extending access to health services, while containing cost and maintaining quality of services.

The committee bill would broaden these activities by calling for the development, through systems analysis, of alternative national systems for the organization and delivery of health services, to be submitted to Congress by June 30, 1971, and a cost and coverage report on the legislative proposals for national health insurance pending before this Congress to be submitted by December 31, 1970.

JOINT ADMINISTRATION OF COMBINED PROJECTS

The bill also provides mechanisms for improved grant administration through joint administration projects involving more than one of the grant programs covered by the bill. The committee's amendment in this regard is innovative yet prudent. Its coverage is restricted to

the grant programs authorized by this bill. Its scope is limited only to administrative functions, as contrasted to requirements imposed by law or regulations required by law. Finally, the single administrative units which could be designated to administer such combined projects is limited to one of the units, which administers the programs included in the bill, or the units to which they directly report—the Health Services and Mental Health Administration.

ANNUAL REPORT

The bill also calls for a single annual report assessing the effectiveness of these grant programs and examining the effectiveness of these grant programs and examining their overall relationship to health financing mechanisms.

TITLE III

Title III of S. 3355 provides for a three-member National Council on Health Policy to be established in the Executive Office of the President, which would set goals for a national health policy for the country, and would make recommendations to the President and Congress on the means for attainment of those goals. The Council would annually report to the President and Congress on its activities. It would be the health counterpart to the Council of Economic Advisers.

The distinguished occupant of the Chair will recall that in the committee, when we were discussing this, it was said that this Nation is spending $63 billion a year on its health, when we count the personal expenditures and tax expenditures. So, to raise this to a level of this national problem, this bill would create this council of health advisers to the country, as we say, hoping that it will reach the status of the National Council of Economic Advisers.

TITLE IV

Title IV of the bill would facilitate the group practice of medicine. It provides that the Secretary of Health, Education, and Welfare may authorize insurance carriers participating in Federal health insurance programs for Federal employees to issue prepaid group practice health insurance policies for all persons, whether or not such persons are Federal employees.

The purpose of title IV is to promote the development and use of prepaid group practice, and thereby to make this innovative type of health care delivery system available to both consumers and physicians who desire to take advantage of it. The committee believes that prepaid group practice is one of the most promising developments in recent years for improving the delivery of high-quality medical care in the United States. Many health experts regard group practice as the health care of the future in America. They believe it is the best available method to achieve more effective and more economical use of our scarce professional personnel and expensive health facilities.

We know that there are some 17 countries in the world where the average male child is going to live longer than the average male child in the United States. We are 13th among the nations of the world with respect to children who die in the first year after birth. We are 7th among the nations of the world with respect to mothers who die in childbirth. There are many other respects in which our health, while not declining per se, has declined in comparison with other industrial nations of the world.

CONCLUSION

Finally, Mr. President, let me strongly underscore the importance of the programs contained in the committee's bill. We all are painfully aware of our country's health care crisis. At this time, the prognosis for the alleviation of these problems in America is not clear. The programs in this bill, particularly the regional medical programs, are essentially tools for productively influencing the organization and delivery of health services to the people of the country. We think it is the duty of this Government, particularly Congress, to make every effort to insure that they remain so. The committee's bill does just that.

The present regional medical health program is very successful. By these broadening provisions, we hope to make it more successful in the future.

The bill reported by the committee, now before the Senate, is open to amendment, and a number of amendments have been offered.

Mr. President, I offer, on behalf of myself and the distinguished Senator from New York (Mr. JAVITS), an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, after line 33, insert the following:

PART J—COMMUNITY MENTAL HEALTH CENTERS

SEC. 290. Section 201 of the Community Mental Health Centers Amendments of 1970 is amended by adding at the end thereof the following new subsection:

"(c) In the case of any community mental health center—

"(1) for which a staffing grant was made under part B of the Community Mental Health Centers Act for any period which began on or before June 30, 1970; and

"(2)(A) with respect to which the portion of the costs (as described in section 220(a) of such Act) which may be met from funds under a grant under such part B is increased (by reason of the enactment of the preceding subsections of this section) for any period after June 30, 1970; or

"(B) with respect to which the period during which a grant under such part B may be made is extended by reason of the enactment of subsection (a) of this section; the provisions of section 221(a)(4) of such Act shall be deemed to have been complied with for any period after June 30, 1970, if the Secretary determines that there is satisfactory assurance that the amount of total costs (as described in section 220(a) of such Act) which will be incurred by such center for staffing purposes for any period after June 30, 1970 will not be less than the amount of such total costs for the period which last commenced on or before June 30, 1970."

Mr. WILLIAMS of Delaware. Mr. President, has the Senator finished?

Mr. YARBOROUGH. I have a brief explanation of the amendment, and then I think the Senator from Illinois has a statement in connection with the amendment, in lieu of the Senator from New York (Mr. JAVITS).

Mr. President, the amendment that I and the distinguished ranking minority member of the Senate Labor and Public Welfare Committee offer today will remedy an unforeseen defect in Public Law 91–211, the Mental Health Center Amendments of 1970.

Congress recently markedly liberalized the terms and conditions under which grants may be awarded to staff community mental health centers. For example, the length of grant support has been increased for 4 to 8 years. The ratio of Federal participation has been significantly increased. And even higher ratios of Federal support have been authorized for centers serving poverty areas.

The basis for Congress action in this regard was principally the administration's testimony that the preexisting grant mechanism was inadequate. In fact, a substantial proportion of the Mental Health Centers which had been funded under the old authority were in serious financial difficulty. Accordingly, we in Congress, at the behest of the administration, significantly liberalized the law. We also intended that all previously funded centers would be converted, as of July 1, 1970, to the appropriate higher rate of Federal funding.

What was not foreseen at that time was that to convert those centers to the higher rate would conflict with a provision of the Community Mental Health Centers Act. That provision, commonly known as the "maintenance-of-effort" provision, requires that Federal funds not be used to supplant non-Federal funds.

Accordingly, we are faced with the bizarre situation of having accidentally excluded from the new legislation those centers, which by the nature of their financial distress, provided the justification for the improvements which the administration requested and with which the Congress concurred.

This amendment rectifies that obvious inequity. Its effect is to mandate the conversion of each of those centers without regard to the maintenance-of-effort provision, so long as the total program effort of the center is not diminished in absolute terms.

Mr. President, as I have said, this situation was not foreseen either by the administration or by the Congress at the time we enacted these amendments last March. If we had foreseen it, we would have included language like that contained in this amendment last March. This is a good amendment. It grants special privilege to no center, but it prevents unfair discrimination against some mental health centers. Senator JAVITS and I urge its adoption.

The Senator from Illinois (Mr. SMITH) has a word to say on behalf of the Senator from New York (Mr. JAVITS), who is not here at this time.

Mr. SMITH of Illinois. Mr. President, as a minority member on the committee, I have been advised that there is no objection, on behalf of the Senator from New York (Mr. JAVITS), who is the ranking minority member, to adoption of the pending amendment.

The PRESIDING OFFICER (Mr. Mc-

INTYRE). The question is on agreeing to the amendment of the Senator from Texas (Mr. YARBOROUGH).

The amendment was agreed to.

Mr. YARBOROUGH. Mr. President, the Senator from Illinois (Mr. SMITH) is waiting with an amendment.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. SMITH of Illinois. Mr. President, on behalf of myself, and Senators JAVITS, SCOTT, PERCY, GOLDWATER, BROOKE, MILLER, MURPHY, PACKWOOD, DOLE, HRUSKA, TOWER, THURMOND, and PROUTY, I send to the desk an unprinted amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: After line 23, page 32, insert the following:

SEC. 281. (a) The Congress finds that there is general agreement that air, water, and other common environmental pollution may be hazardous to the health of individuals resident in the United States, but that despite the existence of various research papers and other technical reports on the health hazards of such pollution, there is no authoritative source of information about (1) the nature and gravity of these hazards, (2) the availability of medical and other assistance to persons affected by such pollution, especially when such pollution reaches emergency levels, and (3) the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(b) The Secretary of Health, Education, and Welfare shall immediately commence (a) a study of the nature and gravity of the hazards to human health and safety created by air, water, and other common environmental pollution, (b) a survey of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, and (c) a survey of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals.

(c) The Secretary shall, within nine months of the enactment of this Act, transmit to the Congress a report of the study and surveys required by subsection (b) of this section, including (a) his conclusions regarding the nature and gravity of the hazards to human health and safety created by environmental pollution, (b) his evaluation of the medical and other assistance available to persons affected by such pollution, especially when such pollution reaches emergency levels, (c) his assessment of the measures, other than those relating solely to abatement of the pollution, that may be taken to avoid or reduce the effects of such pollution on the health of individuals, and (d) such legislative or other recommendations as he may deem appropriate.

(d) The Secretary shall, within one year of his transmittal to the Congress of the report required by subsection (c) of this section, and annually thereafter, supplement that report with such new data, evaluations, or recommendations as he may deem appropriate.

(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Mr. SMITH of Illinois. Mr. President, in January, I introduced S. 3316, the Health Hazards of Pollution Act. The bill would have required the Secretary of Health, Education, and Welfare to begin immediately three parallel inquiries: First, a study of the nature and gravity of the health hazards created by air, water, and other common pollution; second, a survey of the medical and other assistance available to persons affected by pollution, especially pollution at what might be called "emergency levels," and third, a survey of the measures, outside of pollution abatement, that may be taken to avoid or reduce the health hazards that lurk in the polluted environment. At the completion of his inquiries and within 9 months of the bill's enactment, the Secretary would report his findings, evaluations, and recommendations to the Congress.

Sixteen Senators have joined in cosponsorship of S. 3316, including both the ranking majority and minority members of the Labor and Public Welfare Committee, and the distinguished minority leader of the Senate.

As yet there has been no opportunity for hearings on the bill. In my opinion, hearings would accomplish relatively little. The bill is simple. The need is urgent. The cost is small.

The amendment I offer to S. 3355 is identical to S. 3316.

It is, in some respects, promised upon the adage that men often cannot see the trees for the forest. It seems to me, Mr. President, that in the number and variety of our antipollution proposals, we have consistently overlooked the principal cause of our concern about the environment, the effects of pollution upon the health of our citizens. We have proposed the establishment of air and water quality standards and their enforcement, increased Federal aid for the construction of antipollution facilities—even the taxation of pollution by the pound.

Our proposals to date vary in scope and in merit, but they all have one thing in common. They all seek pollution abatement or control in the future. They cannot help people overcome the recognized health hazards of pollution now. During the time that we introduce these measures, conduct hearings on them, debate them, pass, and begin to implement them—and the time they take hold and succeed in substantially removing the noxious agents now present in our land, air, and water—thousands, maybe scores of thousands, of Americans with respiratory or cardiac ailments will die because they are uninformed about the special hazards pollution creates for them. They will die because no one warned them to stay indoors on a certain day, or to avoid strenuous activity in a heavily polluted atmosphere. They will die because of a lack of personnel to treat them or of equipment to assist them. In times of lengthy temperature inversions and highly toxic air content, they will die—as did 4,000 in London in 1952, 62 in the Meuse Valley of Belgium in 1930, 22 in Donora, Pa., in 1948, as did scores in New York City around Thanksgiving Day in 1966—because their public officers have failed to create air pollution emergency plans.

Many, of course, will not be so dramatically affected. They will suffer aggravation of preexisting health conditions, or slowly develop new, chronic ailments. The strongest—or the luckiest—will sustain only headaches, smarting eyes and burning skin, or nausea. Like the greatest percentage of the thousands in Riverside, Calif., who suffered attacks of gastroenteritis during May and June of 1965, while a Salmonella organism went undetected in the public water supply, they will recover, hopefully without permanent health damage.

But the terrible truth is, that from November 7 to 13, 1969, when sulphur dioxide pollution in the city of Chicago rose twice to levels exceeding 25 parts per million, deaths from trachial bronchitis in children of crib age rose 50 percent beyond projected levels. That same combination of noxious gas and inversion conditions has prompted pollution alerts in cities across our land during the past year. In September of 1969, the Eastern Seaboard from Maine to the Carolinas was covered in a pollution-laden blanket of stagnant air, that contributed to untold suffering, and many hundreds of deaths. During that same month, the city of Los Angeles declared its fourth pollution alert of 1969. The smog problems of that fine city are the brunt of many jokes, but few realize the grim consequences of air pollution in Los Angeles: One in eight persons there suffer from one or more types of chronic respiratory ailments, and the incidence of emphysema has risen fourfold there in the past 10 years. Emphysema is, in fact, the fastest growing cause of death in the United States, according to the Social Security Administration, which expends over $80 million in disability payments on account of emphysema each year.

All of this is not a very pleasant picture. I do not mean to paint it in a "sky is falling" fashion. But I do mean to start some people thinking about what we know about the health hazards of pollution, what we can do to help those affected, what we can do to cut down on death and disease caused by pollution—while we are fighting to eradicate it. Are our medical schools preparing our doctors to minister to rising populations concentrated in soot and gas-laden atmospheres in or near our urban and industrial centers? Do our family physicians and public health officers know enough about the health hazards of pollution? Are they equipped to alert us, to treat us, to take prompt, effective action especially in emergency situations? These are some of the questions we need answers to right now.

The situation in many ways parallels our concern in recent years over the health hazards of smoking and the health hazards of pesticides. For at least two decades researchers conducted independent studies of the effects of cigarette smoking on human health. The results of their work for a long time received only the limited attention of their scientific colleagues through publication in technical and professional journals. It took the initiative of the Surgeon General of the United States to produce the reports

that in 1967 and 1968 began bringing the message of smoking's health hazards home to the American people.

Likewise, appreciation of the hazards of DDT was for many years restricted to the exchange of sophisticated technical data among researchers and technicians in professional journals and symposia. Again, it took the initiative of a public officer, Secretary of Health, Education, and Welfare, Robert Finch, to create the report authoritatively linking DDT with malformations of fetuses and the increasing incidence of cancers in experimental animals. The publication of the smoking and pesticides reports, together with the recommendations of those responsible for them, has already begun to save or extend human life, to prevent the onset or advancement of disease in millions. We need a similar rallying point to roll back the toll of avoidable deaths and diseases caused by air and water and other environmental pollution, and we need it now.

Mr. President, the Health Hazards of Pollution Act and my amendment which I now offer would require the Secretary of Health, Education, and Welfare to begin immediately three parallel inquiries: First, a study of the nature and gravity of the health hazards created by air, water, and other common pollution; second, a survey of the medical and other assistance available to persons affected by pollution, especially pollution at what might be called emergency levels, and third, a survey of the measures, outside of pollution abatement, that may be taken to avoid or reduce the health hazards that lurk in the polluted environment. At the completion of his inquiries and within 9 months of the bill's enactment, the Secretary would report his findings, evaluations and recommendations to the Congress. I would hope that his report would result, as did both the Surgeon General's Report on Smoking and Health and the Secretary's Report on Pesticides and the Environment, in a forthright, dispassionate, and authoritative treatment of a vital health question. The Secretary has demonstrated commendable efficiency and industry in organizing and producing the pesticides report in only 8 months. I am sure he shares our sense of urgency about pollution and health.

Mr. President, this session will surely see environment-related activity, but while we debate alternative methods of pollution control, while we haggle about how much money the Government ought to be making available to abate the fouling of our air and water, while we shuffle to the hopper with bills and resolutions of every variety, hoping to gain a consensus on a course of action, Americans will be suffering and dying. Someone ought to be informing them, warning them, planning to prevent or diminish the threat to their lives and health, while the pollution—and our debate—continues.

Mr. SCOTT. Mr. President, would the distinguished Senator from Illinois yield?

Mr. SMITH of Illinois. I yield.

Mr. SCOTT. Mr. President, I am very happy to support the amendment and to express the hope that the manager of the bill would find it possible to accept it.

Mr. YARBOROUGH. Mr. President, the distinguished Senator from Illinois gave us notice about this amendment about a week ago. In fact, he gave us copies 2 days ago so that we would have time in which to study it.

The Department of Health, Education, and Welfare says that they can administer this measure and that it is satisfactory with them. With the assurance of the Health, Education, and Welfare Department, we are prepared to accept the amendment.

Mr. SMITH of Illinois. Mr. President, I thank the distinguished minority leader.

Mr. PERCY. Mr. President, today, my colleague from Illinois, Senator RALPH SMITH, introduced an amendment to S. 3355 which I am pleased to cosponsor. This amendment would require the Secretary of Health, Education, and Welfare to conduct three studies: First, a study of the nature and gravity of the health hazards created by pollution of all types; second, a survey of the medical and other assistance available to persons affected by pollution; and third, a survey of the measure, in addition to pollution abatement, that may be taken to avoid or reduce the health hazards that are caused by pollution.

Mr. President, should we have any doubt as to the magnitude of the health problems created by pollution we need only analyze an article reporting on the results of a study conducted by two Pittsburgh economists, Dr. Lester B. Lave and Eugene P. Seskin of the Carnegie-Mellon School of Industrial Administration. The study conducted by these two men indicated that if air pollution were reduced by 50 percent in our major cities:

First, a newborn baby would have an additional 3 to 5 years' life expectancy;

Second, deaths from lung cancer, and other lung diseases would be reduced by 25 percent;

Third, death and disease from heart and blood vessel disorders might be reduced by 10 to 15 percent; and

Fourth, all disease and death would be reduced by 4.5 percent yearly and the annual saving to the Nation would be at least $2 billion.

Clearly this study indicates that pollution is a health problem of great magnitude and that this amendment is indeed necessary. We have made a number of efforts this session to deal with the abatement of pollution. But these efforts will take time to become effective. We should take action now which will enable us to measure the exact magnitude of the present health hazard and which will enable us to take the necessary steps to reduce or avoid the problem.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment was agreed to.

Mr. SMITH of Illinois. Mr. President, on behalf of the Senator from Vermont (Mr. PROUTY), I ask unanimous consent that a statement by him on the pending bill be printed in the RECORD.

There being no objection, the statement by Senator PROUTY was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR PROUTY

Mr. President, two amendments were accepted in committee without opposition.

The first changed the definition of an RMP by adding a new subsection dealing with health care delivery systems. S. 3355 called for revision of Section 902(a) of the Public Health Service Act to allow for an expanded categorical approach including attention to Heart, Stroke, Cancer, Kidney, and other diseases as opted for by the applicant. Senator Prouty added a new definition of an RMP as one which voluntarily develops and demonstrates health care systems while continuing its other activities required by the categorical definition.

The language is permissive and not mandatory. It also precludes an untested RMP from entering the delivery field while insuring continued operation of ongoing categorical activities. The amendment will allow RMPs who are developing systems approaches in their categorical activities to offer more assistance to regions and localities in allocating their health care resources and services.

The second amendment expands the project authority for Section 304 of the Public Health Service Act providing Research and Demonstration relating to health facilities and services. By adding delivery of health services to existing project authority for construction, equipment and manpower activities, I opened a new source of funds to RMPs wanting to demonstrate new health care delivery systems.

I was also a co-sponsor of S. 3316, calling for a study of Health Hazards of Pollution and support it as an amendment to S. 3355.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS of Delaware. Mr. President, the pending bill calls for appropriations of $3,594,500,000. I certainly think that we will want a record vote on this matter. I therefore ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, I quote from a letter from the Bureau of the Budget as to the need for the bill:

In the light of the serious fiscal situation now foreseen, we think the authorization levels contained in S. 3355 are not realistic.

They go on in the letter to point out that, confronted with a deficit of the size we now have, we cannot afford to expand these programs to the extent proposed in the Senate bill. They only recommended $377 million for fiscal 1971. The committee bill increased that to $516.8 million. The committee bill recommends $621,700,000 in 1972, and $737 million in 1973, $818 million in 1974, and $901 million in 1975, for a total of $3,594,500,000.

I think it is about time that Members of the Senate begin to think about the higher taxes that will be required to support some of these ever expanding programs.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. 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. YARBOROUGH. Mr. President, I call up amendment No. 2, an amendment by the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), and the Senator from California (Mr. MURPHY).

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 32, after line 23, insert the following:

"PART K—REGULATION OF VACCINES, BLOOD, BLOOD COMPONENTS, AND ALLERGENIC PRODUCTS

"SEC. 290. Section 351 of the Public Health Service Act is amended by inserting, after 'antitoxin', each time such word appears the following 'vaccine, blood, blood component or derivative, allergenic product,'."

Mr. SMITH of Illinois. Mr. President, on behalf of the Senator from Colorado (Mr. DOMINICK), I ask unanimous consent that a statement by him on the pending amendment be printed in the RECORD.

There being no objection, the statement by Senator DOMINICK was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR DOMINICK

Mr. President, this amendment is identical to S. 3601, the Administration bill which I introduced March 17 for myself, Senator Javits and Senator Murphy.

The amendment would clarify the intent of Section 351 of the Public Health Service Act by including vaccines, blood, blood components, and allergenic products in the list of biological products which must meet the licensing requirements of that Section.

This amendment is in the nature of emergency legislation made necessary by a 1968 decision of the Fifth Circuit Court of Appeals (*Blank* v. *United States*, 400 F.2d 302) holding that certain blood products used in blood transfusions are not biological products within the meaning of Section 351 of the Public Health Service Act, and are therefore not subject to regulation thereunder. The Court's rationale was that since the products and processes involved in blood transfusions were not known in 1902 when the "Virus-Toxin law", which preceded Section 351, was enacted, Congress could not have intended that they be included. This reasoning would also cast doubt on the Secretary of HEW's authority to regulate allergenic products.

Since the Department of HEW was not aware of the effect of the Court's decision until after the time for seeking review in the Supreme Court had expired, it would take considerable time to have the Secretary's authority to regulate under Section 351 clarified by the courts. It would be unwise to leave the Secretary's authority on such an important public health matter unsettled for that period of time.

As an interim measure, the Department of HEW has amended regulations under the Food, Drug and Cosmetic Act to incorporate by reference the regulations issued under Section 351 of the Public Health Service Act setting standards for manufacturing, processing, packing and holding of biological products.

In addition to blood, blood components, and allergenic products, this amendment would include vaccines on the list of biological products subject to licensing requirements. Although the *Blank* decision does not affect vaccines directly, its inclusion is consistent with the intent of the original "Virus-Toxin Law" of 1902 to protect the public health through the control of biological products.

I think the public interest would be served by favorable action on this emergency legislation now.

Mr. YARBOROUGH. Mr. President, the proponents of this amendment are not present. However, the staff in studying the amendment—and we have had the amendment before us for some time; it was originally offered as a separate bill—feel that the amendment has merit and that it might be an improvement in the present law in amending and defining these terms. So I am prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. YARBOROUGH. Mr. President, I call up a series of amendments on the National Health Advisory Council. The amendments have no name on them. They were to have been offered on behalf of the administration. Our staff has been studying them and they define the new National Health Advisory Council. We have come to the conclusion that they would not be detrimental to the bill but would probably be beneficial. The Department wanted the amendments.

The distinguished ranking minority Member planned to be here but has been unable to get here because of a delay occasioned by a plane. I feel certain that he would want these amendments to be offered. I therefore offer them on his behalf.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. YARBOROUGH), on behalf of the Senator from New York (Mr. JAVITS), offers a series of technical amendments reading as follows:

NATIONAL ADVISORY COUNCIL

SEC. —. (a)(1) Section 217(b), 432(a), 443(b), and 703(c) of such Act are amended by inserting "or committees" after "councils" wherever it appears therein.

(2) Sections 431, 432(b), 433, 443, and 452 of such Act are amended by inserting "or committee" after "council" wherever it appears therein.

(3) Subsections (b) and (c) of section 222 of such Act are amended by inserting "council or" before "committee" wherever it appears therein.

(4) Such section is further amended by inserting in the heading thereof "COUNCILS OR" before "COMMITTEES".

(b)(1) Subsection (c) of section 208 of the Public Health Service Act is amended to read:

"(c) Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding liaison representatives, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding the maximum rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703(b-d), 5707) for persons in the Government service employed intermittently."

(2) The second sentence of subsection (d) of section 306, the second sentence of subsection (d) of section 307, the first sentence of paragraph (2) of subsection (f) of section 358, subsection (d) of section 373, subsection (e) of section 641, subsection (d) of section 703, subsection (d) of section 725, subsection (d) of section 774, subsection (c) of section 841, and subsection (c) of section 905 of such Act are deleted.

(3) Paragraph (2) of subsection (f) of section 358 is further amended by striking out "under this subsection" in the second sentence thereof and by inserting in lieu thereof "to members of the Committee who are not officers or employees of the United States pursuant to subsection (c) of section 208 of this Act".

(4) Subsection (d) of section 905 of such Act is redesignated as subsection (c).

(c)(1) Subsection (a) of section 222 of such Act is amended to read:

"(a) The Secretary may, without regard to the civil service laws and the classification act, from time to time, appoint such advisory councils or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions.

(2) Subsection (c) of such section is amended by inserting "or programs" after "projects"

(d)(1) Subsection (g) of section 408 of the Food, Drug, and Cosmetic Act is amended by striking out "as compensation for their services a reasonable per diem, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence." after "shall receive" and by inserting in lieu thereof "compensation and travel expenses in accordance with subsection (b)(5)(D) of section 706."

(2) Subparagraph (D) of paragraph (5) of subsection (b) of section 706 of such Act is amended by striking out the third sentence thereof and by inserting in lieu thereof the following new sentence:

"Members of any advisory committee established under this Act, while attending conferences or meetings of their committees or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not exceeding the maximum rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently."

The PRESIDING OFFICER. The question is on agreeing to the amendments.

Mr. WILLIAMS of Delaware. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. YARBOROUGH. 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. HART. Mr. President, first I wish to pay tribute to the chairman of the

Committee on Labor and Public Welfare, the able Senator from Texas (Mr. YARBOROUGH) for the very significant contribution he has made to the Nation's health programs during his chairmanship of this powerful committee.

Particularly, I want to commend the senior Senator from Texas for the outstanding job he has done in presenting to us S. 3355, a bill to extend and improve existing programs in the fields of heart disease, cancer, stroke and other major diseases and conditions.

The chairman knows of my interest and that of constituents in Michigan that the bill before us today would extend its coverage to arthritis in the category of other major diseases and conditions. I understand the reluctance to enumerate in the bill or in the report the various possible diseases and conditions which might be eligible for financial assistance under the bill. But I would like to ask the chairman whether he could clarify for the record whether I am correct in understanding that an arthritis program could be an eligible program under this legislation.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator for his kind remarks. I appreciate his remarks all the more since, with his great service and investigative work he has done much for the health care of American people. He is knowledgeable in this area. I wish he were a member of our health committee.

As he knows, this country faces a worsening health care crisis which demands that each of us does the utmost in seeing that our health resources are used in the most effective and efficient manner possible.

When Congress first authorized the regional medical programs in 1965, it was limited to heart disease, cancer, stroke, and related diseases. In other words, we adopted a prudent course at that time.

Based upon the progress which has been made during the last 5 years, we now believe it is time to broaden the scope of the program. Accordingly, the committee's bill adds "kidney disease and other major diseases and conditions" to the RMP authority.

It would, therefore, be possible for an arthritis program to be eligible for support under this broadened authority. Clearly arthritis is a disease of major significance, as well as one which could be included as an integral aspect of a regional medical program.

Mr. HART. Mr. President, I thank the chairman. As he knows, I have been endeavoring to assist the regional arthritis control program in Michigan, which is jointly sponsored by the University of Michigan's medical and public health schools and four teaching hospitals, including the Henry Ford Hospital in Detroit. I appreciate this assurance that they will have a place to turn for Federal assistance, and I hope our Senate conferees will be able to see to it that the language "and other major diseases and conditions" emerges from the conference with the other body.

Again, I thank the able Senator from Texas for this and so many other valuable services he has contributed to millions of Americans who have never heard of him by name but who are better today because of his many contributions.

Mr. YARBOROUGH. I thank the distinguished Senator. I commend him for what he has been doing in Michigan to get this research on arthritis underway. We have no cure yet for arthritis. We hardly have relief possible from pain in a limited way, but not from the disability.

We have recently concluded hearings on a bill concerning digestive diseases. At NIH they do investigative research into digestive diseases. We have gone into that matter in the last 2 weeks. I had had reports that they have virtually abandoned research into the cause of arthritis, particularly rheumatic arthritis, which is one of the most crippling types. NIH assured me that that was not so but that they had been expanding and enlarging the program.

I hope the great State the Senator represents, with its fine medical educational institutions, will press forward under the stimulus of his encouragement and lead the Nation in this area. We need more research. We have not made the progress in the cure of arthritis that we have made in certain other diseases. It is badly needed. I thank the Senator.

Mr. JAVITS. Mr. President, I would like to apologize to the chairman of the committee for not having been here when the bill was first brought up this afternoon. I was detained with the Secretary of State on the very urgent problem of the airplane hijackings.

I am grateful to my colleague for assisting me by offering the amendment which is now pending, which is an administration amendment. I would like to ask the Senator, as a courtesy, if he would mind withdrawing it so that I might offer the amendment inasmuch as the administration wishes to be identified with the amendment.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the amendment I had offered may be withdrawn.

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

Mr. JAVITS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that 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, ordered to be printed in the RECORD, is as follows:

At the end of the bill, add the following:

"TITLE V—MISCELLANEOUS PROVISIONS

"NATIONAL ADVISORY COUNCIL

"SEC. 501. (a)(1) Sections 217(b), 432(a), 443(b), and 703(c) of the Public Health Service Act are amended by inserting 'or committees' after 'councils' wherever it appears therein.

"(2) Sections 431, 432(b), 433, 443, and 452 of such Act are amended by inserting 'or committees' after 'council' wherever it appears therein.

"(3) Sections (b) and (c) of section 222 of such Act are amended by inserting 'council or' before 'committee' wherever it appears therein.

"(4) Such section is further amended by inserting in the heading thereof 'COUNCILS OR' before 'COMMITTEES'.

"(b)(1) Subsection (c) of section 208 of the Public Health Service Act is amended to read:

"'(c) Members of the National Advisory Health Council and members of other national advisory or review councils or committees established under this Act, including members of the Technical Electronic Product Radiation Safety Standards Committee and the Board of Regents of the National Library of Medicine, but excluding liaison representatives, while attending conferences or meetings of their respective councils or committees or while otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding the maximum rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 5703(b-d), 5707) for persons in the Government service employed intermittently.'

"(2) The second sentence of subsection (d) of section 306, the second sentence of subsection (d) of section 307, the first sentence of paragraph (2) of subsection (f) of section 358, subsection (d) of section 373, subsection (e) of section 641, subsection (d) of section 703, subsection (d) of section 725, subsection (d) of section 774, subsection (c) of section 841, and subsection (c) of section 905 of such Act are deleted.

"(3) Paragraph (2) of subsection (f) of section 358 is further amended by striking out 'under this subsection' in the second sentence thereof and by inserting in lieu thereof 'to members of the Committee who are not officers or employees of the United States pursuant to subsection (c) of section 208 of this Act.'

"(4) Subsection (d) of section 905 of such Act is redesignated as subsection (c)."

"(c)(1) Subsection (a) of section 222 of such Act is amended to read:

"'(a) The Secretary may, without regard to the civil service laws and the Classification Act, from time to time, appoint such advisory council or committees (in addition to those authorized to be established under other provisions of law), for such periods of time, as he deems desirable with such period commencing on a date specified by the Secretary for the purpose of advising him in connection with any of his functions'.

"(2) Subsection (c) of such section is amended by inserting 'or programs' after 'projects'.

"(d)(1) Subsection (g) of section 408 of the Food, Drug, and Cosmetic Act is amended by striking out 'as compensation for their services a reasonable per diem, for time actually spent in the work of the committee, and shall in addition be reimbursed for their necessary traveling and subsistence expenses while so serving away from their places of residence.' after 'shall receive' and by inserting in lieu thereof 'compensation and travel expenses in accordance with subsection (b)(5)(D) of section 706.'

"(2) Subparagraph (D) of paragraph (5) of subsection (b) of section 706 of such Act is amended by striking out the third sentence thereof and by inserting in lieu thereof the following new sentence:

"'Members of any advisory committee established under this Act while attending conferences or meetings of their committees or otherwise serving at the request of the Secretary, shall be entitled to receive compensation at rates to be fixed by the Secretary but not exceeding the maximum rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including travel time; and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5 of the Administrative Expenses Act of 1946 (5 U.S.C. 73b–2) for persons in the Government service employed intermittently.'"

Mr. JAVITS. Mr. President, this is exactly the amendment offered by the Senator from Texas (Mr. YARBOROUGH). It relates to compensation of members of the Public Health Service Advisory Council and committees which are established under this bill.

Current provisions of the PHS Act relating to compensation of members of the Public Health Service advisory councils and committees establish varying and widely disparate rates of remuneration for the members of these various groups. At present, and for no discernible reason, some groups are entitled to less than half of the compensation available to the membership of others. These proposed amendments will permit the establishment of uniform rates of compensation for all members of these councils and committees and will thus insure consistent and equitable treatment. They authorize compensation at rates to be fixed by the Secretary, not to exceed the maximum rate specified at the time of service for grade GS–18. They provide for a uniform method of payment for expenses including per diem in lieu of subsistence as authorized for persons in the Government service employed intermittently. The advisory councils and committees play a major role in the NIH programs and those of other Public Health Service agencies. Equitable treatment of their membership in the manner of compensation is in keeping with the importance of their responsibilities.

Also, the amendment being submitted is similar to part C of the General Education Provisions Act and represents the administration's effort—which acts here through me, as I am the ranking minority member of the committee—to bring about this degree of uniformity.

Again I express my gratitude to the Senator from Texas (Mr. YARBOROUGH). I hope the Senate will take favorable action on this amendment.

Mr. YARBOROUGH. Mr. President, I congratulate the distinguished Senator from New York. As the ranking minority member of the committee he has had a hand in every health bill that has been passed. He is a leader in this field and his services are invaluable.

We have had a great body of health legislation due to the cooperation of the Senator from New York, as the ranking minority member of the committee, and our side. We would not have had this body of health legislation without the active cooperation of the distinguished Senator, and I thank him for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

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

Mr. JAVITS. Mr. President, I have another amendment to offer, but I am glad to yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I rise to congratulate the Senator from Texas on all his good work in the field of health, as well as in so many other fields, and to support S. 3355, this excellent bill, to extend the regional medical program, comprehensive health planning program, and the national health research and demonstration program.

This bill, designed to improve our country's delivery of health care services, is most needed and most important in view of the very serious health care problems with which we are all familiar.

I am particularly proud to support this bill since title II of S. 3355 represents my own bill S. 3634, the National Health Care Systems Study, Research, and Demonstrations Act of 1970.

This title does two things basically: First, it extends the authority for the National Center for Health Research and Demonstrations to develop model health care systems—as a matter of fact, I am hopeful that my own State of Rhode Island will serve as a model health care State—second, the bill instructs HEW to undertake a systems study of the alternative plans that could be developed to reform our inefficient $60 billion national nonsystem of health care.

There have been many plans suggested for the reform of our Nation's health care system. Senators KENNEDY and YARBOROUGH have introduced an excellent measure, which I have cosponsored, to establish a national health insurance plan through employer and employee contributions. Senator JAVITS has introduced a bill based on somewhat similar principles. Senator FANNIN has introduced a tax credit proposal. Other approaches have been suggested calling for a more decentralized approach for the provision of national health care, such as requiring employers to provide a minimum level of health care to their employees and families in much the same way as employers are required to pay a minimum wage.

All these suggestions have a similar purpose, that is to provide a basic floor of health care for all Americans. The question is, By what means we can best obtain that purpose? The systems study that I propose should provide some insights into the answer to that question.

The systems study I propose requires that alternatives to the present system of health care be compared to the present system in terms of their relative cost, extensive coverage, their benefits to various socioeconomic groups, and their relative efficiency and effectiveness.

Upon completion of this study the Secretary of the Department of Health, Education, and Welfare will report his findings to the Congress. Hopefully this study will provide the information that Congress needs to legislate, in a rational manner, a reform of our Nation's system of health care during the next session of Congress.

There have been no objections to this study that I know of. As a matter of fact, I have received some encouragement for this study. The Aetna Life and Casualty Co., which has a proposal of its own, supports my proposal. I ask unanimous consent that their letter of support be included in the RECORD at this point.

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

AETNA LIFE AND CASUALTY CO.,
Hartford, Conn., June 23, 1970.

Re 3.3634—National Health Care Systems Study, Research, and Demonstration Act of 1970

Hon. CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: Ætna Life & Casualty is the Nation's largest private health insurer. As such, we have a compelling interest in each of the many proposals for a National Health Insurance Program which have been presented to the Congress.

Some of these proposals would bypass the health insurance industry, while others would afford us a rather full role in the delivery and financing of health care in the future.

We are proud of our role in the development of the health insurance industry and confident that we possess an organization of many skills. We are also realistic enough to perceive that the health care delivery system in the near future will be characterized by change; that we cannot survive by a "business as usual" philosophy in our health insurance operations.

In this context, it seems not only in the Nation's interest, but in our own, that the Congress have available to it a carefully conducted study of alternative National Health Care Plans. The Ætna Life & Casualty has made certain suggestions of its own to the Congress in this regard and we are now working with the Health Insurance Association of America to develop a program the entire health insurance business could support.

For these reasons, we are pleased to assure you of our support for S. 3634.

Sincerely,

JAMES H. HUNT,
Director, Government Relations Group Division.

Mr. YARBOROUGH. Mr. President, I thank the Senator from Rhode Island for his kind remarks, and congratulate him on his leadership in this field. As was stated in explaining the bill originally, title II is now incorporated in the bill. It was thought that we could better handle these programs by incorporating them in one bill, his bill is now incorporated into the pending bill.

I want to congratulate the Senator on his help in legislation that we hope will result in the improvement of the health of the people of this Nation.

As the Senator from Delaware stated a few minutes ago, this is a very important bill. It is broad in scope. It costs money. But the health care of the people of this country is declining and something must be done. The Senator from Rhode Island has made a major contribution to what is now in the bill. We hope to hold it in conference with the House. I thank the Senator for his work.

Mr. PELL. I thank the Senator.

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows: On page 32, after part J, insert a new part K.

PART K—REGULATION OF VACANCIES, BLOOD, COMPONENTS, AND ALLERGENIC PRODUCTS

SEC. 290. Section 351 of the Public Health Service Act is amended by inserting, after "antitoxin", each time such word appears, the following: "vaccine, blood, blood component or derivative, allergenic product,".

Mr. JAVITS. Mr. President, the research contracting authority of the Public Health Service will expire on June 30, 1971. The amendment proposed will extend the authority for an indefinite period of time, deleting present time limitation under section 301(b) of the Public Health Service Act. The use of this authority is to complement basic research—conducted in universities and other nonprofit organizations—supported through the grant-in-aid. It is used when the Government is seeking highly specific and sharply circumscribed research results. This instrument—the research contract—is particularly appropriate for applied research or technological development efforts intended to exploit most expeditiously and efficiently discoveries arising out of grant-supported basic research programs. Industrial firms, which are not eligible for PHS grants-in-aid, have been able to make significant contributions to a number of PHS research programs through existing research contract authority.

This would make the provision for contract authority consistent with the provision for grant authority.

I hope the Senate will act favorably on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. YARBOROUGH. Mr. President, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I send another amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read the amendment, as follows:

At the end of the bill add a new title V:

TITLE V—MISCELLANEOUS PROVISIONS

"TRAINING AUTHORITY OF INSTITUTE OF GENERAL MEDICAL SCIENCES

"SEC. 502. Section 442 of the Public Health Service Act is amended by striking out 'research' before 'training'."

Mr. JAVITS. Mr. President, this proposal amends section 442 of the Public Health Service Act to permit the National Institute of General Medical Sciences to support clinical, as well as research, training related to its mission and thus to make the scope of its training authorities identical to those of the other institutes. The National Institute of General Medical Sciences as well as its predecessor, the Division of General Medical Sciences, initially was assigned responsibility for the basic and preclinical medical sciences. The scope of this Institute's program has gradually evolved to include several clinical sciences; for example, anesthesiology and radiology, in which there are critical shortages of training specialists and seriously limited national institutional capacity for the training of those clinical specialists. Historically, the National Institutes of Health effectively solved such problems in many other fields. This minor alteration in the requested authority will enable the NIGMS similarly to meet urgently important national needs within its domain of responsibility.

I hope the Senate will act favorably on the amendment.

Mr. YARBOROUGH. Mr. President, I accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, these amendments represent three administration amendments, which complete the administration's contributions to the bill.

I support and urge the enactment of "The Health Services Improvement Act of 1970" (S. 3355). The legislation incorporates many of the provisions of the administration's "Health Services Improvement Act of 1970" (S. 3443) which I introduced—with the cosponsorship of all the Republican members of the Labor and Public Welfare Committee—as an essential initiative for improving our health programs to meet the urgent need for improved health care for the Nation.

S. 3355 is a comprehensive bill to extend and improve the regional medical programs, comprehensive health, planning and services, national center for health services research and development and the national center for health statistics authority and permits the joint administration of projects involving one or more of said authorities. In addition, the bill: requires an annual report on program effectiveness; establishes a national council on health policy; and authorizes Federal health benefit providers to issue contracts for prepaid group practice health services.

In order to launch a national comprehensive cooperative medical program for the treatment of kidney disease, to control and reduce kidney disease of prevention and detection programs, and to provide research support for kidney disease programs, as contemplated by the "National Kidney Disease Act of 1969" (S. 2482) which I introduced for myself, the Senators from Washington (Mr. MAGNUSON and Mr. JACKSON), the Senator from Texas (Mr. YARBOROUGH) and 36 other Senators from both parties—Title I of the bill would broaden the categorical purview of the regional medical program to include kidney disease.

A broadened program authority would allow the mechanism of regional cooperative arrangements to be used to more comprehensive advantage and reflects growing concern over the national status of this major chronic disease. Nearly 8 million persons in the United States are afflicted with kidney disease, of which about 60,000 progress to a terminal disease condition and death each year if life-sustaining treatment is not available. Diseases of the urinary tract rank fourth among causes of death from chronic disease. Kidney disease also tends to strike in the middle, most productive years of life, compared to other chronic diseases.

In order to provide a specific focus to kidney disease, the proposed legislation specifies that a maximum of $15 million of the amount appropriated in fiscal year 1971 be available for kidney disease activities. It also specifies that the National Advisory Council on Regional Medical Programs shall include membership outstanding in the study or care of kidney disease.

Section 260(a)(2) of the bill remedies the barrier of the transfer of appropriate projects—for example, where the Department of Health, Education, and Welfare assumes support for selected, mature neighborhood health service centers previously funded by the Office of Economic Opportunity, consistent with the Department's commitment and plan to develop systems of primary health care for the poor and to work toward extending the strategy to the health care needs of the total population—by authorizing the payment of equity requirements and amortization of loans on facilities as part of the costs of project grants for comprehensive health services. Whereas the Office of Economic Opportunity is authorized to pay, as part of the costs of such projects, equity requirements and amortization of loans on facilities, the Department of Health, Education, and Welfare lacks any clear such authorization under section 314 of the Public Health Service Act.

In order to facilitate and expedite joint administration of projects in which there are costs eligible for assistance from more than one program for which funds are authorized by the bill, section 270 of the bill authorizes the Secretary to promulgate regulations pursuant to which a single administrative unit may perform the necessary administrative functions for all the programs, reducing and simplifying the numbers and types of separate forms, reports and data requests which have to be submitted, and revising and making uniform any inconsistent or duplicative program requirements. The Secretary would not be authorized, however, to waive or suspend any requirement imposed by law or by any regulation required by law. Additionally, the bill limits the single administrative unit to either the unit which administers one of the programs covered by S. 3355 or the administrative unit charged with the supervision of two or more of such programs. Under current HEW organization that would have the effect of limiting the designation of such a unit to the Regional Medical Program Service, the Community Health Service, the National Center for Health Services Research and Development, or the Health Services and Mental Health Administration.

Title III of the bill creates a National Council on Health Policy—originally in-

troduced by me as a separate bill—S. 770 to establish a Federal Council of Health which will have the responsibility of fixing a coherent set of national health goals for our Nation.

The National Council on Health Policy would be modeled along the lines of the Council of Economic Advisers and the recently created Council on Environmental Quality. It would be located in the Executive Office of the President, and would consist of three full-time members appointed by the President with the advice and consent of the Senate.

The principal function of the Council would be to establish a national health policy for the United States, and to make recommendations to the President and Congress on methods to achieve the goals of the policy. The Council would provide new executive leadership at the national level in health affairs. As a high-level coordinator and policymaker in the health field, the Council would study and evaluate health activities throughout the Federal, State, local, and private sectors, and would suggest new programs and new approaches in all areas of health policy, such as research, facilities, services, manpower, and the organization, delivery, and financing of health care.

This measure would bring into being the recommendations of the Task Force on Federal Medical Services of the Second Hoover Commission, which have been ignored for 14 years. While temporary, short-term groups such as Presidential commissions, ad hoc committees, and interagency committees have been created to deal with specific problems in the health field, none of these groups has had the scope or power of the recommended National Council on Health Policy. The creation of a National Council on Health Policy is overdue, especially in light of the tremendous growth of Federal health programs in recent years, and the lack of an adequate existing mechanism for setting national health policies and long-range goals.

The National Council on Health Policy would fulfill a function in the area of health affairs similar to the function now fulfilled by the Council of Economic Advisers in the area of economic affairs.

The Council would perform a corresponding function in health policy, and would establish itself as an entity distinct from the existing Federal departments and agencies with operating responsibilities in health affairs. Ideally, the annual report of the Health Council would become the same sort of major health event in the Nation that the annual report of the Council of Economic Advisers represents for the economy.

To promote the development and use of prepaid group practice, and thereby to make this innovative type of health care delivery system available to both consumers and physicians who desire to take advantage of it, title IV of the bill would facilitate the group practice of medicine. It provides that the Secretary of Health, Education, and Welfare may authorize carriers participating in Federal health benefit programs for Federal employees to issue contracts for prepaid group practice health services to any persons, whether or not such persons are Federal employees.

The authorization given to the Secretary in title IV is intended to encourage those group practice programs that have the greatest potential for improving the delivery of health care. It will encourage greater participation by the private, or "voluntary," health sector in developing innovative approaches to health care. Such encouragement is especially needed at this time, when we want to assure all Americans—whatever their economic status—accessible, quality health care at a time when health care is one of the fastest increasing items in the cost of living.

Also, Mr. President, to give form and direction, and to change the dangerously haphazard organization of our health care in America, we have given this additional authority to the Secretary, with the proposal of encouraging what is gradually emerging as one of the most likely forms of the delivery of health services, to deal effectively both with quality health care and with the cost of those services; to wit, the so-called group practice units.

I hope very much the Senate will vote favorably on the bill.

Mr. President, I conclude by saying that too often, we take for granted the unbelievable amount of labor which goes into the establishment of the program for the American people which, when it becomes law, will be contained in this bill. I think it is a great tribute to the patriotism and to the humanitarian spirit of the Senator from Texas (Mr. YARBOROUGH) and to his love for his fellow man, that, notwithstanding the kind of vicissitudes politically which could easily have frustrated other men, he has persisted not only indefatigably but with style and grace in seeing these measures through the Senate of the United States. I am proud to be associated with him and to be his friend, and I think it should be noted time and again that he continues in the most exemplary way to pursue a tradition which has marked his service here for many years, and which, in this as in so many other matters affecting the health of our people, will be enormously beneficial to all Americans.

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from New York for his kind remarks. In our work on these health bills, education bills, and labor bills, I think that despite the fact that we are the senior members of our parties in our respective categories, he and I have agreed on at least 90 percent of the provisions of practically every bill that has come out of that committee. I feel honored to be complimented by a man who is himself exemplary when it comes to indefatigable labor.

I think at this time we ought to pay tribute to our staffs. I have just been handed a card from the cloakroom informing me that some of the staff members are in the cloakroom, and were not able to get into the Chamber. I ask unanimous consent that at least one staff member for each member of the Labor and Public Welfare Committee be permitted the privilege of the floor. We have worked long and hard on this, we have had long sessions and long hearings in the subcommittee and the committee, and it is difficult to obtain a quorum at this time.

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

Mr. JAVITS. Mr. President, I thank the Senator from Texas for his reference to the staff, and I would like to name specifically Jack Forsythe and LeRoy Goldman, who is on the floor now, and, on the minority side, Jay Cutler, Roy Millenson, and Martin Klein who have worked so very hard on this bill.

Mr. YARBOROUGH. I thank the Senator for his consideration in specifically naming those staff members. Jack Forsythe has been counsel for the committee, first with the House of Representatives and then with the Senate, and has been a staff member for 16 years. He started his work in public health under the recent chairman of the committee, Senator Lister Hill. We have had many years of accumulated staff experience, which has gone into bringing what we think is a major health bill to fruition. The staff deserves a great deal of credit for working it out to where it is presented in its present form on the floor of the Senate. There has been much staff work on both sides.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS of Delaware. Mr. President, in view of the fact that this measure will cost a little over $3.5 billion I should like to extend appreciation to the taxpayers who will have to pay for this measure. Their contribution, which is substantially above the administration's request if it passes, should be recognized. It is so seldom that the taxpayers are given any consideration by the Senate that I thought some not of appreciation to these hard-pressed taxpayers should be mentioned.

I address this inquiry to the chairman of the committee: H.R. 18110 and H.R. 17570 both show cross references on the calendar to Calendar No. 1100, which is S. 3355, the bill now before us. Do I understand that S. 3355 embraces the provisions of both of those bills as passed by the House of Representatives to which I have referred except that it also contains the usual Senate increases in authorizations?

Mr. YARBOROUGH. Basically, they are included in the Senate bill, but there are some differences to be ironed out in conference.

Mr. WILLIAMS of Delaware. The difference is that the Senate has added several hundred million dollars to what the House provided; is that correct?

Mr. YARBOROUGH. That is correct.

Mr. WILLIAMS of Delaware. I wonder why we do not just pass the House bills, instead of the Senate bill, because the House bills are several hundred million dollars less for the two programs, and I am sure, as I have already stated, that in view of the financial situation the House could not support S. 3355, the bill now

before us, with all the extravagant ideas of the Senate added.

I again quote from the statement of the Director of the Budget:

> In the light of the serious fiscal situation now foreseen, we think the authorization levels currently contained in S. 3355 are not realistic.

Would it not be more realistic, in the light of the fiscal problems we face—a deficit of over $1 billion per month—to adopt the limits provided in the House bills?

Mr. YARBOROUGH. Mr. President, in response to the Senator's inquiry, first, we do not feel, after our subcommittee and committee have thrashed this out, that we should accept the House bills, because we have many provisions in our bill which are not in their bills. If we accepted theirs, we would be surrendering many beneficial items.

In the second place, I do not think, Mr. President, that this is extravagant. I join the Senator in his thanks to the taxpayers. We are trying to do something for the taxpayer, who is paying $63 billion a year for health care and not receiving adequate health care. The purpose of the bill is to bring adequate health care to the people.

This argument is like every argument I hear on education and on health bills: The opponents always add up the appropriations for 5 years, and say, "This bill is costing $3 billion." It does, over 5 years. But when we have a war bill, for the war in South Vietnam, they do not add up 5 years, they always come in with only 1 year. The defense bill is $73 billion; why do we not use the same rule for military expenditures that we do for the civilian expenditures? If we did that, and we had before us that defense bill we passed the other day—offense bill, I would call it—we would say five times $73 billion, and we would have $365 billion. I am not saying the Senator from Delaware is responsible for that; I do not charge him with that. But this is what happens on the floor of the Senate. I have been here for 13 years and 4 months, and every time we bring in a veterans bill, a cold war GI bill, a health bill, or an education bill, we hear every time how many billions it is costing.

Never, in all the years I have been here, have I ever one time heard anyone who brought up one of these big military bills of $73 billion for 1 year, roll it all together, and say, "That is $365 billion." But if we take the military authorization of $73 billion for this year, five times that is $365 billion. Here we have provided, for the people, less than 1 percent of that amount. Mr. President, I think the people of this country are entitled to that 1 percent. This is the people's money, being spent for the benefit of the people by Congress.

I think the people, if they knew the facts, would be proud that we are going to use some money for their benefit.

Mr. WILLIAMS of Delaware. Mr. President, as one who is connected with an administration which in the last 70 years has never had a war and one which has been having to provide the methods to finance the war started by the administration with which the Senator is associated, I enjoy the remarks of the Senator from Texas. I, too, have been discouraged by the cost of these wars, and I hope we can keep an administration in power which will recognize that the best way to prevent wars is not to start wars.

Mr. YARBOROUGH. And if they are started and somebody says he will stop them, they will be stopped.

Mr. WILLIAMS of Delaware. I sympathize with those who want to get the war over. Senators have been debating this point for the last 6 weeks, "Let's get the war over."

Some of these Senators remind me of the village ruffians who start a fire in the village schoolhouse and then heckle the firemen because they cannot extinguish the flames faster.

I want to stop these wars, but I am getting impatient at the continuous effort to justify every program on the basis that if we do not have to pay for the wars we can spend all the money. After all, taxes are paid by all Americans, whether we are Republicans or Democrats, whether the wars started in a Democratic administration, as they were, or paid for in a Republican administration, we still have to pay for them.

I hope that those Senators who are concerned about the cost of these wars will recognize the cost at the time the war is started. The way to save money is not to start the war. I hope that lesson will be remembered by all administrations in the years ahead.

To get back to the subject before us, we are going to have a tax bill before Congress in the next few months. I note that the cost of this bill is over $3.5 billion over a 5-year period, and I should like to ask this question, because I do not want to belabor this matter: How much is this increase over the amounts provided in the bills as passed by the House? I have the House bill before me, but I do not have a report tabulating the totals. Does the Senator have the exact figures?

Mr. YARBOROUGH. I do not have those figures, but the staff advises me that it would be several hundred million dollars, apparently the figure the Senator has given.

Mr. WILLIAMS of Delaware. That is what I thought.

Mr. YARBOROUGH. I point out this difference: The other is a 3-year bill, while ours is a 5-year bill.

Mr. WILLIAMS of Delaware. That is correct. But there are still the increases to which we have referred, which, even on an annual basis, is substantially above the House figure.

Mr. YARBOROUGH. The staff is of the opinion that they are not substantially different on an annual basis. Ours is a 5-year bill, as contrasted to theirs, which is a 3-year bill. Ours has in it all that they have in their two bills, and more, with the new titles that have been added. One, as the Senator from Rhode Island pointed out is that several items have been added to title II, to have a comprehensive study, to roll these things together and try to get some efficiency in the health care system of the country.

Mr. WILLIAMS of Delaware. I realize that the committee bill provides for 2 additional years, and we shall not mention those for the moment. But since the Senator says there is not too much difference in the objectives or what they would achieve in the two bills perhaps he would accept a couple of minor amendments which on that premise will not affect his bill but would save $125 million.

I note that the House bill to amend section 901(a) for the year 1972 provides $150 million. the Senate bill provides $200 million for the year ending June 30, 1972, or an increase of $50 million. I assume that there will be no objection to an amendment reducing that amount to the House figure, since, as the Senator has stated, they are somewhat comparable.

Mr. YARBOROUGH. There would be most strenuous objections, I say to the Senator from Delaware, because the amounts in the Senate bill were not just dropped in there casually. These amounts were debated in the subcommittee and the full committee, and the figures as finally reflected in the bill reported to the floor are not figures in the original bills. These are compromise figures and are reduced over other figures given to us in evidence and other figures that had been advocated.

The figures in the Senate bill are the reduced compromise figures reached in the committee.

Mr. WILLIAMS of Delaware. They may be lower than the figures in some of the original bills introduced, but they are substantially higher than those approved by the House and higher than the administration requests, and the Senator has already complimented the House on its action.

I have an amendment with respect to those figures, and 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. WILLIAMS of Delaware. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. WILLIAMS of Delaware. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> On page 10, line 8, strike out "$150,000,000" and insert in lieu "$125,000,000"; on line 9, strike "$200,000,000" and insert "$150,000,000"; on line 10 strike out "$250 million" and insert "$200 million".

Mr. WILLIAMS of Delaware. Mr. President, it would be in order to ask for a separate vote on each but in order to expedite matters, I ask unanimous consent that these amendments be considered en bloc, if the Senator from Texas has no objection.

Mr. YARBOROUGH. I have no objection.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. WILLIAMS of Delaware. Mr. President, this amendment would restore the figures under section 103 of the bill as it would amend section 901 of the act to the exact figures provided in the House bill with this exception, that it would leave in the Senate bill the additional 2 years authorization, with which I do not quarrel. If we could get acceptance of the proposal here to maintain the House figure this would mean a reduction of $125 million on this particular section, and I hope that the Senator from Texas would feel he could accept the amendment.

Mr. YARBOROUGH. Mr. President, we cannot accept the amendment of the distinguished Senator from Delaware without crippling the bill. As was pointed out earlier in debate, in extending the bill on heart, cancer, and stroke we added kidney disease and certain other major diseases. In colloquy with the Senator from Michigan it has been developed that kidney disease is having a crippling effect on many Americans who suffer great pain as a result of it.

We have held hearings on heart, cancer, stroke, and kidney diseases and this bill does not contain enough money to do the job. We are not fooling ourselves. The budget stringencies were presented to the committee. This is a minimal program. The staff has added up the cost and the total amount for the first 3 years that the Senate exceeds the House bill is $165 million over those 3 years which we have in our bill over the House bill. So I think there is no magic in the House bill. Why have hearings if we settle for the House bill. We have done our work. The committee has an able staff and has been working on these matters for years. We are conscious of the fact that in conference with the House, we may have difficulties, but these cuts would cut us off in the hip pocket before we could make a start on these other diseases.

I would respectfully request that my colleagues in the Senate not accept the amendments. There is too much at stake in the health of the American people. They have spent, both privately and publicly, $63 billion, and the situation is getting worse in many parts of the country. Heart disease, cancer, and stroke are three of the biggest killers of the American people today. Cancer is killing one-third of a million people annually. It has reached epidemic proportions here. One-fourth of the American people will have cancer before they die, and one-sixth will die from it unless we can find some remedy. We are trying to increase our research into these diseases. Cancer has grown so fast proportionately in this country that it has now reached epidemic proportions. We must not cut back on research to improve the health of the American people, especially with cancer, which is the slowest and most painful of all diseases.

I urge the Senate not to cut research into these painful, killing diseases and respectfully ask the Senator from Delaware to join me in rejecting the amendments.

I know the Senator from Delaware, I have served with him for many years. He is sincere in all his efforts to protect the budget. But, this is not the bill to cut expenditures on, as we search for the answers that will cure heart disease, cancer, stroke, and kidney disease.

Mr. WILLIAMS of Delaware. Mr. President, even with the adoption of this amendment the bill would carry several million dollars more than has been spent heretofore. It would, even with the adoption of this amendment, still exceed what the budget had requested, but I would go along with that figure. I realize that cancer and other diseases which the Senator from Texas has mentioned are threatening the people of this country, and I certainly want to do something about eliminating them. But we also have the cancerous growth of inflation in this country, which is getting out of hand and which will continue to get out of hand unless Congress holds down its appropriations. I am one of those who think that we have to cut back on all appropriations, not on just Defense. I supported the amendment of the Senator from Wisconsin (Mr. PROXMIRE) the other day to cut $5 billion from Defense, but we are going to have to cut across the board on all programs in the Government if we are to approach a balanced budget.

I do not question the sincerity of the Senator from Texas or the sincerity of other Senators who feel that we could put more money into these programs, but as a member of the Finance Committee I am greatly concerned over the fact that we are going to have to continue to keep raising taxes to pay for all these increased expenditures. The taxpayers are already overburdened. We have already done serious damage to the elderly through inflation, which has eroded the purchasing power of their pensions, their life insurance, their savings accounts, and their bonds. They have all been eroded as a result of inflation—inflation caused to a large extent by the extravagance of Congress. That, too, must be considered.

This amendment proposes a reduction back to the House figure. The House bill passed overwhelmingly, and I do not believe that Members of the House were being unrealistic or hardhearted when they passed their bill. They, too, share the same concern as Members of the Senate on the problems of health. But there is a limit as to what we can afford. If the Senator from Texas will not accept the amendment I would ask for the yeas and nays on it.

The yeas and nays were ordered.

Mr. WILLIAMS of Delaware. Mr. President, I am ready to vote.

Mr. JAVITS. Mr. President, the Senator from Delaware, as is always true of him, has challenged us. I honor him for it. He always makes us face ourselves, which we should do in this case.

It is a fact, as the chairman of the committee has said, in the other body, the figures for the various categories of authorizations of appropriations which appear on page 2 of the committee report were increased over those requested by the administration.

For example, with respect to the first item of regional medical programs, the administration requested some $100 million for 1971 and the House voted $125 million. The figure we have in the Senate bill for the authorization is $150 million.

As the Senator has fairly stated, that goes on all through the bill, resulting in an increased figure of authorizations for the 3 years, bearing in mind that we have an order of magnitude of something overall—according to the rather quick calculation I have just made—of between 10 and 15 percent; so that the Senate authorization, if this bill passes, will have been increased over the House authorization, by that order of magnitude.

I invite the views of Senators upon this proposition.

We are for allpractical purposes engaged in Congress in determining what we think ought to be the priorities with respect to expenditures on the part of United States. I, too, voted to cut materially defense spending, as did the Senator from Delaware. I voted for that cut because I felt that rating the priorities without depriving our country of security was the action by which we could make a change in priorities and make our legislative contribution to what the administration thinks ought to be done. After all, we have cut the administration's ideas on defense spending, too, not withstanding their recommendations.

Mr. President, it seems to me that the order of magnitude here is such that an investment over this period of 3 years is amply justified in the way of a shifting of priorities.

My distinguished chairman has already noted that kidney disease is included as part of the program covered by this bill which heretofore related to heart disease, cancer, and stroke.

This is a very significant inclusion in the bill. It has been the subject of enormous concern because 8 million Americans are estimated to be affected by kidney disease and a very substantial number of those Americans—in the hundreds of thousands—are adversely affected because of the inadequacy of treatment and treatment facilities.

This bill adds kidney disease to the expanded regional medical programs covered by the bill presented by the administration. I am the principal sponsor of the National Kidney Disease Act of 1969, S. 2482, introduced on June 25, 1969, with 39 other Senators joining me in sponsoring this particular addition.

This in itself can be a major cause for the increased authorization which we have given.

Page 18 and subsequent pages of the committee report make explicit the prevention and rehabilitation, including health care that are essential elements in what we are seeking to provide in this bill as well as diagnosis and treatment of the four diseases—kidney, heart, cancer, and stroke.

Also, another innovation in respect to the bill is experimentation on how to deliver health care most economically.

I spoke a while ago about the encouragement of group practice units. The bill authorizes research and reporting into the various alternative plans for

some form of national health care coverage.

I refer to page 22 of the committee report which indicate the financing mechanisms that could serve as the basis of alternative plans for national health coverage. Among them are my own plan, which is a payroll deduction as well as a general revenue plan. I notice that the Senator from New Mexico (Mr. ANDERSON) is in the Chamber. The Senator from New Mexico first educated me on this whole level years ago. He and I collaborated in what ultimately became the Medicare plan.

There is a tax credit plan, such as outlined in the bill by the Senator from Arizona (Mr. FANNIN), and a private health insurance premiums plan which is generally considered to be the AMA plan, but in this case was suggested by the Aetna Insurance Co.

Mr. President, as we have added critically important aspects to the bill, it is very natural that we included additional authorizations in order to cover them.

I respectfully submit that the order of magnitude of these additional authorizations for the 3 years which results in contemporaneous reach of both the House and the Senate bill are not so great—under 10 percent—as to justify the Senate in reversing the concepts of the committee which did such a thorough job under the leadership of the Senator from Texas (Mr. YARBOROUGH) in this matter.

I repeat in closing that I respect enormously the Senator from Delaware. However, I respectfully submit that the order of magnitude and the reasons for the action amply justify the action taken by the Senate committee.

I hope the Senate will sustain that action.

Mr. YARBOROUGH. Mr. President, I point out in this connection that under the expired law, authorizations for heart disease, cancer, stroke, and related diseases were $200 million for the year ending June 30, 1968. Due to the effects of the war in Vietnam, the next year the authorizations were reduced down from $200 to $65 million.

They then began to increase in 1970 and went to $120 million. Now we would have this amount up to $150 million for the year ending June 30, 1971. We would have it go to $200 million in 1972.

We had a $200 million authorization back in 1968. The gross expenditures in the war, reaching at one time as high as $3 billion a month, or $36 billion a year, reduced that amount.

Under the committee bill, it will take us until 1972 to get back to the authorization we had in 1968, in spite of the fact that we have added other diseases to the bill.

Mr. HATFIELD. Mr. President, as a cosponsor of S. 3355. I want to commend my distinguished colleague from Texas for his leadership in this area.

On July 8 of this year, I spoke on the floor about one facet of the objectives of this bill, that is, kidney disease. I am sure that my colleagues here today would find sentiments in their State as strong as I found in Oregon in support of this program.

I ask unanimous consent that my statement of July 8 and the accompanying material be reprinted in the RECORD.

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

KIDNEY DISEASE—THE LIVES THAT COULD BE SAVED

Mr. HATFIELD. Mr. President, S. 3355, Heart Disease, Cancer, Stroke, and Kidney Disease Amendments of 1970, of which I am a cosponsor, has been reported to the Senate floor. The bill will act as a general vehicle to extend and improve our existing health programs. One important addition has been made: the great need for funding of kidney disease treatment is recognized.

Many times, the Senate has expressed its awareness of the need of additional medical treatment for the American people. As we all know, technology and medical research have now alleviated many of our past generation's most feared diseases. Yet when the discoveries are made, when theoretical remedies and treatments are actualized, we are often denied the benefits because the treatment programs are scarce and inadequately funded.

Kidney disease is a killer, yet it can be prevented and its effects deterred. On a national basis, it is estimated that close to 8,000 salvable lives are lost annually because of prohibitive costs and the inacessibility of treatment of kidney disease.

The situation in Oregon is a microcosm of our United States. The Good Samaritan Hospital, which has the only Oregon facilities for home dialysis training, is able to treat annually only 12 of the 58 to 78 Oregon citizens who will reach end stage renal failure each year. Mr. Don Fry, the director of development at Good Samaritan, has pointed out that there are, in additon, two young vascular surgeons who are anxious to be trained for kidney transplants, were the funds available.

The costs for home dialysis is high: $13,000 to $15,000 for the first year and an average of $4,000 each successive year. State organizations including the Oregon Medical Association and the Kidney Association of Oregon have diligently cooperated with local, county, and State boards, but funds remain inadequate.

The passage of this bill would save the lives of many now suffering from kidney diseases. The amount allotted is minimal, yet, this is action in the right direction. Remedies for kidney disease and many other major diseases are possible, research often on the brink of cure, the problem is basically one of financial support. I urge my colleagues to pass favorably on S. 3355.

Mr. President, I ask unanimous consent that the letter sent me by Mr. Chuck Foster, executive director of the Kidney Association of Oregon, Inc., describing case histories of Oregon patients, be printed in the RECORD. I call particular attention to the remarkable success of the program and the number of very young lives that were saved. Also, I ask unanimous consent that a letter I received from Mr. Don Fry, along with the supportive letters and a description of Good Samaritan's Home Hemodialysis Training for Oregon Renal Patients and application for a U.S. Public Health grant to assist the Oregon programs, be printed in the RECORD.

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

KIDNEY ASSOCIATION OF OREGON, INC.,
June 26, 1970.

Hon. MARK HATFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HATFIELD: Mr. Don Fry, Director of Development, Good Samaritan Hospital & Medical Center in Portland, outlined to you in his letter of June 10 the cooperative program of the hospital and the Kidney Association of Oregon to provide training and treatment for end-stage kidney failure patients through hemodialysis.

In order to make this information complete, Mr. Fry has asked me to provide you with material on an extremely important phase of our program, the rehabilitation of our patients.

We have been highly successful, not only in saving the lives of kidney failure patients, but we have also been successful in returning patients to their homes, their families and their jobs. Therefore, they are rehabilitated to lead relatively normal, productive lives.

Here are just a few examples, showing how people who were faced with death have become almost normal persons:

Kathleen Adams, 27, of Canby holds down a full-time job as a tab operator for Peerless Trailer and Truck Service in Tualatin.

Harold Belknap, 42, is a full-time custodial supervisor for the schools in Burns.

Frank Clancy, 23 was re-trained by the Oregon Department of Vocational Rehabilitation as a welder. He has been working as a full-time welder during the past year.

Vincent Dulcich, 44, is Athletic Director at the Astoria High School. Because of his illness, he signed a half-time contract with the school system in 1969. He is looking forward to working full time next year. He is married and the father of four children.

Don Gee, 35, formerly a teacher in the Gresham school system, was retrained as a computer operator for the Multnomah County I.E.D. and works full-time. He is the father of three children.

Mrs. Kathryn McDonald, 46, of Portland is the mother of four sons. She performs all of her own housework, except for heavy chores like floor scrubbing. She cooks meals for her family of five.

Susan Morrow, 44, works full-time in the records department at the University of Oregon Medical School. Single, her brother helps her perform her dialysis "runs".

Ted M. Peterson, 53, has just returned to his home in Eugene following his 10 week training period at Good Samaritan Hospital. He is now working full-time as Manager of Sales and Service at Ultra-Tone Drapery Cleaners of Eugene.

Mrs. Barbara J. Pinkerton, 56, is a full-time social worker for the State of Oregon Public Welfare Division.

Frank Tamney, 51, is the owner and operator of a 40 acre orchard in Ashland.

Betty Jo Brown, 21, of Portland has, until recently, been working full-time at Tektronix. She has applied for a kidney transplant and on the advice of her physician has stopped work temporarily.

Nine women Kidney Association patients have been rehabilitated to take care of their homes and their families. They are: Mrs. Twila Bradshaw, Medford; Mrs. Marie Day, Klamath Falls; Mrs. Eleanor Gipe, Canby; Mrs. Delina Schonneker, Milwaukee; Mrs. R. C. Shoemaker, Albany; Mrs. Helen Strouse Troutdale; Mrs. Ruth Waggoner, Lake Oswego, Mrs. Ann Van Winkle, West Linn and Mrs. Clara Stratton, The Dalles.

Mrs. Gladys J. Fisher, 58, has just completed her training period at Good Samaritan Hospital, and will be discharged today to return to her home in Lake Oswego with her artificial kidney machine. She is already searching for employment.

Only one of our 22 kidney failure patients, James Joy of Reedsport, is unable to be employed. He has had a series of medical problems, some of them unrelated to kidney failure.

The above case histories of patients of the Kidney Association of Oregon illustrate dramatically not only the success of the training center and emergency facilities of Good Samaritan Hospital, but of our ability

to rehabilitate our patients in their home environment.

We will appreciate your assistance in securing funds for Good Samaritan Hospital so that they may continue and expand their extremely worthwhile work.

Sincerely yours,

CHUCK FOSTER,
Executive Director.

GOOD SAMARITAN HOSPITAL &
MEDICAL CENTER,
June 10, 1970.

HON. MARK HATFIELD,
U.S. Senate, Washington, D.C.

DEAR SENATOR HATFIELD: Hemodialysis for end failure renal patients was first performed in Oregon at Good Samaritan Hospital and Medical Center in 1962, in a program supported entirely by this hospital.

Aside from the program at the U.S. Veterans Hospital, we are still the only dialysis training center in the State. The University of Oregon Medical School does have a limited dialysis program as back up for kidney transplant work done there on a rather limited scale.

The program is very expensive—so expensive that no hospital can carry the cost without some outside assistance.

We have attempted to operate as a training center only—a center where a patient could be trained and then returned to the care of his own physician and hospital for further care. However, when a patient's life is dependent on dialysis and he knows the training center has the facilities and the knowledge to care for his affliction, that patient is going to return to that center in desperation whenever he is in trouble. Hence, it seemingly is impossible for a center to ever be relased from the care of a patient it has trained—and the cost continues.

About three years ago we assisted in the organization of the Kidney Association of Oregon, a non profit organization, which has been very successful in securing private gifts and state funds to assist in carrying on the program. Presently, all of our hemodialysis patients enter training through the KAO program.

The 1967 Legislature appropriated $200,000 on an emergency basis for the care of Oregon kidney patients and KOA directed the expenditure of this fund, using a portion for the cost of the training. Last year The Oregon Department of Rehabilitation appropriated $218,000 for kidney patients.

We have attempted on numerous occasions to secure support for the program through HEW of the U.S. Public Health Service. Our latest effort toward this end was an application filed in April of 1968 which was approved and lay dormant until June of 1969 when it was rejected for want of available funds. This application was filed under the provisions of Section 314(e)(1) of P.L. 89–749.

The Oregon Rehabilitation funds come indirectly from federal sources, but aside from that not one penny of federal money has ever been spent in the care of Oregon kidney patients, other than those eligible for benefits of the Veterans Administration Hospital.

Applying the statistics of the Burton and Gottschalk reports (made two years ago to the Secretary of HEW) to Oregon's population, we find that between 58 and 78 Oregon people will reach end stage renal failure a year.

The Medical Screening Committee of KAO, which passes on all patients accepted for home dialysis training, handles an average of three applications per month. Some are eliminated for medical reasons, but available funds will allow the acceptance of but *one new patient a month.*

Statistics of all the patients trained for home dialysis at Good Samaritan are not readily available, but KAO has accurate records of the patients trained since the inception of their organization. Their records show: 23 patients on home dialysis, 2 now in dialysis training, 2 deceased, 3 have had kidney transplants (two of these surviving).

When a patient is accepted for the program, he enters the hospital for cannula surgery and then goes to the Kidney Laboratory on an outpatient basis for training for a period of from six to eight weeks.

The costs during the first year range from $13,000 to $15,000. This includes the cost of hospitalization, surgery, training, a home model artificial kidney machine, drugs, supplies and medical and surgical services.

During the second and all successive years the cost averages $4000 a year. This would cover additional cannula surgery as required, drugs, supplies and physician services.

Unless the patient can undergo a kidney transplant, this cost will continue as long as he lives.

Our Kidney Laboratory now has two nurses (subject to call 24 hours a day), an artificial kidney technician, a medical director, an associate medical director and a secretary.

The Kidney Association of Oregon reimburses us for the payroll costs and we absorb some $20,000 a year plus for rent, utilities, housekeeping, accounting, administration, etc.

Nearly all of the patients have come from Multnomah and contiguous counties.

Statistics would cause us to believe there are people from other parts of the State who suffer end renal failure. Probably if a kidney program were added to the Regional Medical Program as S. 3355 would provide, many of these people might be given the benefit of a hemodialysis program.

KAO during the last six months has been actively projecting a fund raising program, which has produced some $80,000 for use in the care of these unfortunate people.

Some of the patients have insurance and some have resources of their own, but it is seldom a patient has resources sufficient to sustain them on the program without assistance.

I trust this information will emphasize the needs for some federal assistance for a hemodialysis program.

So you will have at hand more detailed information on the training and treatment program, I am enclosing the narrative portion of our last application for assistance from HEW. I am also sending along copies of supporting letters from the medical associations and the State Health Officer.

I am asking Mr. Charles N. Foster, director of KAO to give you information on the rehabilitation of these patients, who faced certain death before they entered the hemodialysis program.

If I can be of further assistance, please let me know.

Cordially,

DON FRY,
Director of Development.

P.S.—We have two young vascular surgeons who are eager to train themselves for kidney transplant work, but we have not been able to find funding for such animal laboratory studies and training.

OREGON MEDICAL ASSOCIATION,
Portland, Oreg., March 28, 1968.

DAVID BRAND, M.D.,
Chronic Disease Consultant, U.S. Public Health Service, DHEW, San Francisco, Calif.

DEAR DR. BRAND: We are advised Good Samaritan Hospital and Medical Center of Portland is submitting an application, through your office, for federal support of their renal-disease dialysis program.

This Association has followed with considerable pride the work at Good Samaritan Hospital in pioneering the development of a renal dialysis program, the building of a home dialysis unit and generally assuming the obligations, including financial, during the early months and years of this project. Dr. Otto C. Page of its Medical Staff originally stimulated the interest and carried the responsibility.

Later this activity was carried on by Dr. Richard F. Drake and now since Dr. Drake has been called into military service, Dr. Charles Martinson is the physician in charge. The program at Good Samaritan continues to be under the direction of highly motivated and competent physicians.

It is strongly recommended that the application of Good Samaritan Hospital for federal support of this dialysis program be approved.

Very truly,

GLENN M. GORDON, M.D.,
President.

GOOD SAMARITAN HOSPITAL &
MEDICAL CENTER,
Portland, Oreg., February 23, 1968.

DAVID BRAND, M.D.,
Consultant Chronic Disease, U.S. Public Health, DHEW, San Francisco, Calif.

DEAR DOCTOR BRAND: The medical staff of Good Samaritan Hospital & Medical Center is fully cognizant of the work in hemodialysis being carried on in the dialysis training center at this hospital.

This program has the support and endorsement of the medical staff. We would further recommend this program for support of the federal government in accord with the application being filed by the hospital with Charles Martinson, M.D., as the project director.

Cordially,

JOHN O. BRANDFORD, M.D.,
Chief of the Medical Staff.

OREGON STATE BOARD OF HEALTH,
Portland, Oreg., November 10, 1967.

DAVID BRAND, M.D.,
Medical Consultant, National Center for Chronic Disease Control, U.S. Public Health Service, Department of Health, Education, and Welfare, Federal Office Building, San Francisco, Calif.

DEAR DR. BRAND: Mr. Fry has recently made available to me a copy of their application for a project grant for home hemodialysis training for Oregon renal patients requesting a letter of endorsement to you.

Their hospital has, I believe, pioneered in the area of home renal dialysis and in the revision, modification and simplification of the equipment involved. The project, as described, appears to have an excellent potential for some valuable training for both practicing physicians and the house staff at Good Samaritan Hospital. It should also significantly increase the number of patients for whom this life-prolonging procedure would be made available and, at the same time, reduce the cost and allow it to be performed in their own homes. I would hope that, in the future, training in this activity would also be made available to students and faculty at the Medical School in Portland, and I feel confident that the officials at Good Samaritan Hospital would be sympathetic toward this.

I see this proposed project as an excellent expansion of activities that they have promoted assiduously and would not hesitate to strongly endorse their application.

Sincerely,

EDWARD PRESS, M.D.,
State Health Officer.

P.S.—I thought you might be interested in the attached copy of a newspaper clipping on "Kidney Rent Inaugurated" (in Washington, D.C.).

OFFICE OF THE GOVERNOR,
Salem, Oreg., October 25, 1967.

Dr. DAVID BRAND,
Chief, Chronic Disease Section, U.S. Public Health Service, San Francisco, Calif.

DEAR DR. BRAND: The care of Oregon people suffering from chronic renal disease, requiring dialysis, is a matter of grave concern to me.

The recent session of our Legislature made an emergency appropriation to aid in the care of these people. We are well aware, however, that this fund is not sufficient.

The State money for treatment of chronic kidney disease is being administered by the Kidney Association of Oregon, which is cooperating in the training and treatment program being carried on at Good Samaritan Hospital & Medical Center in Portland.

The Good Samaritan Hospital program is the only training and treatment program in Oregon. The physicians and nurses at Good Samaritan have sustained the life of a number of our Oregon people confronted with end-renal failure.

We have confidence in this program; and I would commend it to you as you review the application, which I understand is being made, for U.S. Public Health funds for support of the renal dialysis work at Good Samaritan Hospital & Medical Center.

Sincerely,

JOHN MCCALL,
Governor.

KIDNEY ASSOCIATION OF OREGON, INC.,
Portland, Oreg., October 23, 1967.

U.S. PUBLIC HEALTH SERVICE, DHEW,
Region IX,
San Francisco, Calif.

GENTLEMEN: The Kidney Association of Oregon, the only civic group in this state organized to give financial assistance to people with end-failure kidney disease, is cooperating in the hemodialysis training program at Good Samaritan Hospital & Medical Center in Portland.

Our organization was selected by the recent session of the Oregon Legislature to administer state funds appropriated to assist the kidney dialysis program in Oregon. These funds and money supplied from volunteer community efforts are available for support of renal patients and are being used to assist patients in the Good Samaritan Hospital program.

Our organization is to sponsor public appeals for funds in various parts of the state for support of the dialysis program.

We are familiar with the application being made by Good Samaritan Hospital & Medical Center for funds under the provisions of P.L. 89–749 and are committed to provide the major portion of the "applicant's share" of the costs of this program.

We believe this dialysis training and treatment program is essential and it has our full endorsement. However, without federal support as requested by this grant, we can see no way at the present time of carrying out this program, so urgently needed in Oregon.

Sincerely,

CHARLES N. FOSTER,
Executive Director.

HOME HEMODIALYSIS TRAINING FOR OREGON RENAL PATIENTS

INTRODUCTION

This project, submitted under the provisions of Section 314(e)(1) of the Public Health Service Act, as amended by Public Law 89–749, requests a U.S. Public Health grant to assist Good Samaritan Hospital & Medical Center in Portland, Oregon and the Oregon Kidney Association to provide hemodialysis treatment and training for residents of this area with chronic renal disease.

Over a period of five years Good Samaritan Hospital & Medical Center has, without government funds, developed a well recognized hemodialysis program. A substantial portion of the cost has been carried by the Hospital, some community funds, a limited amount of State funds and the resources of patients have contributed.

Recently the Oregon Kidney Association was formed to secure financial assistance for persons suffering chronic kidney affliction.

Patients determined to be physically and psychologically suitable for hemodialysis would be trained at the Good Samaritan Center and then released for home dialysis and returned to the care of their own physician.

This proposal asks U.S. Public Health Service to share the cost of training and supplies for endstage renal patients, accepted in the program, during the first year of dialysis. The Kidney Association of Oregon will assume the responsibility for the patients after the first year, although every effort will be made to utilize the resources the patients and their families may be able to provide.

The Oregon Kidney Association is now administering $150,000 of State funds appropriated for patient care during the biennium. Community funds have been raised and the Association contemplates additional fund raising appeals.

The project anticipates the admission of one new patient a month, with a total of 12 to be trained each year.

Attached is a copy of Good Samaritan Hospital's indirect cost agreement with the U.S. Public Health Service. The agreement approves an indirect cost rate of 23.58%. This rate does include fringe benefits, which amount to 13 percent of the payroll and which are included in the budget for this project.

1. PROJECT OBJECTIVES

This project proposes to continue and perfect an existing home hemodialysis training program. Medically suitable patients selected by a medical screening committee will be admitted to the program at the rate of one per month. Each patient will be supplied with hemodialysis equipment and accessory supplies sufficient for 12 months of home treatment. The patient will be trained for an eight-week period and then returned to his home.

The project further proposes to facilitate the integration of the techniques of chronic hemodialysis and management of chronic uremia into the various health services within the state of Oregon. Each patient will be returned to his home town to be managed medically by his local physician; when hospitalization is necessary every effort will be made to have the patient admitted to the local hospital used by the local physician.

2. PROJECT EVALUATION

The results of this project will be easily evaluated by reviewing several routine records of patient progress. Composite records with a narrative summary will be submitted semi-annually to interested agencies.

Patients will maintain daily log books which will note general condition and equipment problems or failures. Medical data such as weight, diet, blood pressures, need for blood transfusions, and blood chemistries will be recorded. These records will be kept in duplicate and one copy will be sent to the training center at monthly intervals.

Patients will be required to visit their local physician once monthly, and take with them their copy of the daily log book. The medical director will communicate once monthly with the local physician regarding patient progress, data in the log book, and recent knowledge which may apply to the patient. Records of these communications will become part of the training center's records.

The patient will be required to revisit the training center once every three months. At this time a review of medical and equipment problems will be possible. Any necessary revision of techniques can be accomplished during this one-day period.

The project has a built-in continuation evaluation process, resulting from the use of consultants from leading kidney centers on the West Coast. One of these consultants comes from the University of Washington Kidney Center in Seattle, and the other from the San Francisco center, and each will make bi-monthly visits to the Good Samaritan Center to appraise the work being done. In their capacity as consultants, they will be in a position to not only evaluate the program, but to make suggestions for improvements for better patient care and to recommend the use of new drugs, chemicals and equipment, which may be developed.

These same factors will be observed by the project director in travel to other nearby centers and to the annual meeting of the American Society of Artificial Internal Organs.

Further evaluation of the program will come from its acceptance by physicians of the state and by participation of other hospitals in the care of rental patients trained in the program.

3. PROJECT NEED AND BACKGROUND

Statistics from the Burton and Gottschalk reports indicate that Oregon's population will produce fifty-eight to seventy-eight patients yearly coming to end-stage renal function. Recent experience of the Medical Screening Committee reveals that there are monthly two or three patients considered for home hemodialysis.

The state of Oregon has only three hospitals currently able to offer long-term treatment of the patient with terminal irreversible uremia. In the Veterans Administration Hospital in Portland there is a center dialysis unit and a recently initiated transplant program. The University of Oregon Medical School has completed ten kidney transplants as of March 1, 1968; this unit has its own dialysis backup program.

The dialysis training center at Good Samaritan Hospital & Medical Center is the only other hospital offering chronic dialysis, and is the only hospital offering training in home hemodialysis.

Hemodialysis in Portland, Oregon was first performed at Good Samaritan Hospital & Medical Center in 1962. This initial program was supported in total by the hospital. The formation of the Columbia Regional Artificial Kidney Center offered hope that funds from public donation could augment this initial program which was center-oriented.

The former medical director of the training center, Dr. Richard Drake, collaborated with Mr. Charles Willock to develop a proportioning dialysate delivery system which made possible in 1965 the first home hemodialysis in Oregon. The Drake-Willock system is currently used around the world for center and home hemodialysis.

In 1967 the Oregon State Legislature appropriated $150,000 to be used "exclusively for the benefit of Oregon residents requiring dialysis treatment." This money was allocated to the Kidney Association of Oregon, Inc., a newly formed organization which replaced the less effective Columbia Regional Artificial Kidney Center.

Since July, 1967 the Kidney Association has solicited public funds to augment the funds apportioned by the State Legislature, and has been successful in doing so. The goal of this organization has been to accept one patient monthly for home hemodialysis training and on-going treatment.

The goal of the Kidney Association is to provide training and treatment for all Oregon patients accepted for dialysis. Although

the community has responded generously, this program is not possible without substantial government assistance.

Selection of patients for this program is the purpose of a medical screening committee sponsored by the Multnomah County Medical Society and the Oregon Medical Association. Accepted patients are referred to the Good Samaritan Hospital & Medical Center for initial treatment and subsequent training.

As of March 1, 1968 nine patients trained at Good Samaritan Hospital are in their homes utilizing home hemodialysis. Two other patients are in training now. The Kidney Association of Oregon has sponsored eight of these patients, and the Seattle Artificial Kidney Center supports another. The remaining two patients are privately supported. All patients were approved by the medical screening committee. All patients are managed by their private physicians, with consultations available from training center personnel. The resident staff at the University of Oregon Medical School is functioning as the "local physician" for one patient.

Local hospitals have cooperated in the continuing care of these patients. The Good Samaritan Hospital training center has sent its personnel to several hospitals in this city and elsewhere to train local nurses, technicians, and physicians in the use of hemodialysis equipment used by the patients.

Training of local physicians in home hemodialysis and in the management of the patient with chronic uremia has been the function of the medical director. This has been effected by the aid of the training center for on-site familiarization with equipment, scheduled lectures, and by the distribution of the Physicians' Manual for Treatment of Chronic Uremia (University of Washington). Funds to purchase the latter have come from a small grant by the Collins Foundation of Portland, Oregon.

This existing program was initiated by Dr. Richard Drake while he was chief medical resident at Good Samaritan in 1962. Dr. Drake continued to improve the program after he entered private practice. He is the individual primarily responsible for the present training center. Dr. Drake was inducted into military service in January, 1968.

Dr. Otto Page, as Chief of Medicine, Good Samaritan Hospital, was instrumental in directing Dr. Drake to this project, and Dr. Page has acted as senior advisor to the program since its beginning.

4. METHOD OF PROCEDURE

All patients admitted to this program must have approval by the medical screening committee. Patient acceptance is determined by medical and psychological factors only.

Most patients are presented to the committee before the need for dialysis exists. Dialysis is initiated when the creatinine-clearance falls below 5 ml per minute, or when the patient develops complications such as uremic pericarditis, peripheral neuropathy, or metabolic bone disease.

When dialysis becomes necessary, the patient is admitted to Good Samaritan Hospital. An external arterio-venous shunt of polyvinyl and teflon tubing is inserted by a surgeon skilled in the use of this material. We prefer the lower arm site for the cannula because of the fewer days of hospitalization required during cannula healing.

Approximately one week is spent in the hospital by the patient. When his uremic state is stabilized after three dialyses over a seven-day period he is discharged to the training unit as an out-patient.

Out-patient training requires from six to eight weeks. The patient is dialyzed Monday, Wednesday, and Friday; he spends Tuesday and Thursday in the unit's kidney laboratory receiving practical and theoretical instruction regarding dialysis and the uremic state.

Family members are admitted to the unit for short visits only during the first four weeks of training. These individuals are required to be present during the last two to four weeks of training; the patient will by this time be able to instruct his relatives in proper dialysis techniques. Staff members will supervise the entire procedure but will gradually withdraw from active participation as the patient and his assistant become proficient in self-care.

By the time the patient is ready to return to his home for hemodialysis his equipment will be installed by the technician. Prior analysis of water pressure and water calcium content will have been accomplished, and appropriate measures taken if indicated.

A nurse will be available in the home for the first dialysis only. The family physician is encouraged to visit the home sometime during the first dialysis.

A. Patient selection

Patient selection is performed by the medical screening committee which meets monthly in the office of the Multnomah County Medical Society. Details on committee members are included as an addendum. Efforts are being made to include members from more distant cities in Oregon.

Patient presentation to the committee is required to be made by letter or in person to the patient's private physician; this physician must agree to assume the management of medical problems after patient training has been completed. Satisfactory evidence of current medical status must be accompanied by sufficient historical and laboratory data necessary to determine the patient's need for dialysis. Renal biopsy information is requested but not mandatory. Coexistent disease is carefully searched out and appropriate consultants requested if indicated.

A social and psychiatric evaluation of the patient and his family is performed if there appears to be no medical contraindication to dialysis. Social screening is performed at present by a professional social worker in private practice in Portland. Psychiatric evaluation is performed by or under the supervision of the Department of Psychiatry at the University of Oregon Medical School.

No patient is selected until his condition indicates an immediate need for dialysis. The screening committee has several cases tabled for monthly reviews. (Many patients screened have benefited from helpful suggestions to family physicians regarding current concepts of conservative medical management of chronic uremia.)

An acceptable patient must be one who is a stable, emotionally mature citizen of Oregon residing in the state for at least six months. The candidate's age must be 15 to 50 physiologically. He must not be afflicted by other chronic disease unrelated to renal disease. Specifically, the candidate must not suffer from diabetes mellitus, cerebral aneurysm, or permanent neurologic deficit which would preclude rehabilitation as a useful family member. He cannot live alone.

B. Patient training

While hospitalized for cannula insertion and initial dialysis the patient will be introduced to general principles of dialysis; particular attention will be given to cannula care and diet. After discharge the patient will enter six to eight weeks of training. The training manual is added as an addendum.

Training curriculum

Week 1: Correct hand washing and its importance; basic principles of aseptic techniques; the cannulas—their structure, function, care, problems; measurement of the blood pressure; the artificial kidney—structure and function; collection of blood samples from the cannulas; weights and measures used in dialysis; syringes and needles—size, how to use; basic information about the dialysate delivery system; diet instruction.

Week 2: The dialyzer—cleaning, building, sterilizing and rinsing it for a run; initiating and discontinuing dialysis; administration of blood, normal saline, and medications during dialysis; problems which may occur during dialysis—hypotension, chills and fever, ruptured membranes, clotting; measurement of hyparinization—Lee & White clotting times; dialysate delivery system—safety devices, alarm and warning lights—what to look for and what to do when they indicate trouble; diet instruction.

Week 3: Preparation of the dialyzer and dialysate delivery system for dialysis: initiating and discontinuing dialysis; testing the chloride content of the dialysate; dialysate delivery system—mechanical problems; drawing blood cultures; declotting the cannulas; diet instruction.

Week 4: Preparation of the dialyzer and dialysate delivery systems for dialysis; initiating and discontinuing dialysis; monitoring the run—clotting times, administering blood, saline, etc., chloride tests; sterilization of supplies at home; record keeping—important items to note—accuracy.

After the first four weeks of intensive training, the patient and his family member will be prepared to begin taking more responsibility for the runs, cleaning up the equipment, keeping their records, etc. The staff of the unit will permit them to be as much on their own as possible, so that they will become accustomed to performing all tasks required before discharge from training.

C. Laboratory use during dialysis

The addendum contains a schedule of laboratory tests desirable during training and after. During the training period all laboratory tests will be done in the central laboratory of Good Samaritan Hospital & Medical Center.

Frequent notation of blood chemistries is necessary during early dialysis; less frequent determination suffice after the individual patient's pattern is established.

The Multichemistry is a 12-channel autoanalyzer technique used for monthly surveys of slowly-changing chemical values. This battery of determinations includes: Blood Urea Nitrogen, Calcium, Inorganic Phosphorus, Alkaline phosphatase, total protein, albumin, uric acid, cholesterol, bilirubin, SGOT, SLDH, and Glucose. This monthly analysis will aid in the diagnosis of anicteric hepatitis and metabolic bone disease.

Transfusions of packed red cells will be given only when the hematocrit is below 18 to 20%. Post-dialysis BUN values of 40 or less are desirable. Pre-dialysis potassium levels should be 6 meq per liter or less. Pre-dialysis creatinine levels should be less than 12 to 14 milligrams per 100 cc blood.

Serum iron determinations will discover those individuals having excessive blood requirements secondary to ion deficiency.

Electrocardiograms and chest X-rays are done routinely. Hand X-rays are done to aid in the detection of bone disease. Urine culture and colony counts are performed routinely every two months because of the susceptibility these patients have to urinary tract infections.

D. Training of the patient's family physician

Each physician is given a copy of the Physicians Manual for Treatment of Chronic Uremni (University of Washington School of Medicine). Experience has shown that any physician who has a background of general medicine (internal medicine) and who is capable of caring for the patient with a chronic illness can successfully manage the patient on chronic hemodialysis.

The physician is not expected to have a thorough understanding of the dialysate delivery system. He must have an understanding of various physiologic changes which occur during dialysis. He will be required to make decisions regarding cannula function, blood requirements, fluid and salt restrictions, hypertension and hypotension, and febrile reactions. An awareness of signs and symptoms of defects in iron and calcium metabolism, peripheral neuropathy, and pericarditis is required.

Physicians of patients living more than 50 miles from the unit can obtain sufficient training in one or two visits to the training unit. Continued consultations with the medical director will reinforce information contained in the training manuals.

Because patients living in the greater Portland area have shown a tendency to consult the training unit rather than their family doctor a different approach is to be used. These physicians will make daily rounds on their patients during the last two to four weeks of training. The physician will thus make decisions regarding dialysis while the patients is still under the care of the medical director. It is hoped that this will give the patient more confidence in his family physician and will eliminate direct consultation between patient and training unit except for quarterly reviews.

E. Home preparation of dialysis

Prior to completion of patient training the technicians visits the patient's home for supervision of plumbing facilities in the "dialyzer room." The equipment is installed by the technician and is retested prior to use. If local water pressure is less than 40 pounds per square inch, a supplemental pump is installed. If the home water supply contains more than 0.6 milliequivalents per liter of calcium a sodium-exchange water softener must be installed.

F. Dialysis equipment used

Basis equipment used includes the Drake-Willock proportioning dialysate delivery system and the Kiil flat-board dialyzer. A copy of the Drake-Willock owner's manual is enclosed in the addendum.

G. Patient follow-up

The patient will keep a daily log of certain observations; a copy of the daily log sheet is contained in the addendum. These sheets will be kept in a hard-bound book which the patient will take to the doctor's office each visit. In addition, once monthly a copy will be sent to the training center.

The patient will make routine monthly visits to his physician. Once every three months he will visit the training center for review of medical status and dialysis techniques.

The technician will make home inspections at least once every three months, and monthly when possible or when necessary. In addition to inspection of dialysis equipment he will review with the patient any problems in procuring dialysis supplies and will make suggestions accordingly.

H. Hospital admissions following the training period

Cannula care and recannulation should be performed by a surgeon who has experience with problems peculiar to external shunts. Thus, until experience is obtained elsewhere in Oregon, it is anticipated that patients will return to Good Samaritan Hospital for cannula surgery. The Hemodialysis personnel will be able to offer dialysis during this period.

When interested surgeons so indicate, every effort will be made to encourage their participation in recannulation or in primary cannula insertion.

Hospitalization for other problems should be in the patient's home town, under the care of the family physician. Personnel from the training center will assume initial dialysis responsibility and will train people in local hospitals to supervise dialysis. Each patient will have at least one expert who should be utilized whenever possible; this is a relative, usually spouse, who assists in dialysis in the home.

5. PARTICIPATION OF OTHER AGENCIES

Support for this program has come from many sources within the state; both lay and professional groups have cooperated thus far and have indicated future continued efforts to improve treatment of persons with chronic irreversible renal failure.

The Multnomah County Medical Society and the Oregon Medical Association have both officially endorsed the project. (See letters attached) These professional groups have made possible the medical screening committee for the selection of patients for hemodialysis treatment, as described elsewhere in this narrative.

The Oregon State Board of Health has endorsed the program, as indicated by the attached letter from Dr. Edward Press, state health officer. Dr. William Wright, director of the chronic disease section of the State Board of Health has actively worked in support of both the project and the preparation of this application.

The approval of the official Oregon state government is indicated by the attached letter of endorsement from the Honorable Tom McCall, governor of the State of Oregon.

The Oregon State Legislature recognized an immediate need for dialysis treatment for Oregon residents with end-stage renal disease by appropriating $150,000 for this work during the biennium, July 1967–July 1969. This fund is being administered by the Kidney Association of Oregon through the Good Samaritan training program. The continuing interest of the State of Oregon in providing dialysis for Oregon kidney patients is indicated by the attached letter from State Senator Ted Hallock.

The University of Oregon Medical School has officially, by letter of endorsement, and unofficially, by cooperative patient care, been involved with this training program. Two members of the screening committee are on the full-time faculty of the Medical School.

The Kidney Association of Oregon, an organization of civic minded business and professional men, has as its purpose the raising of funds to provide dialysis equipment and hemodialysis treatment for suitable Oregon residents suffering from terminal renal disease. This organization is committed to the support of the Good Samaritan Hospital & Medical Center home hemodialysis training center as indicated in their letter attached as Addendum No. 13.

During April the Kidney Association of Oregon organized a subchapter in Eugene, for fund raising purposes; it is anticipated other chapters will be organized throughout the state.

All but one of the major Portland hospitals have cooperated in the continuing care of renal patients trained in this program. Several hospitals in other parts of the state have also accepted patients trained at the Center. There is no contractual arrangements with these hospitals; they have accepted patients in response to the patient's own physicians after the conclusion of the training period. However, personnel from the Good Samaritan Center have gone to some of these hospitals to teach the paramedical staff the techniques of dialysis.

Evidence of progress in technique and general acceptance of the dialysis patient on the wards of the hospitals is encouraging. There is no reason to believe the other hospitals in Portland and in other cities of the state will not become involved in the treatment of dialysis patients when the opportunity presents itself.

Private physicians from varied specialties and general practice have individually endorsed this program by offering continuing care for their patients after training.

6. PROJECT CONTINUATION

It is anticipated there will be a continuing need for a hemodialysis program, Progress in renal transplantation is encouraging, but does not offer the ideal treatment for all patients. Dialysis techniques and skills acquired in local hospitals during the duration of this project will, no doubt, be important to future transplant programs and to maintenance of patients prior to transplant or not suitable for transplant.

The Kidney Association of Oregon is organized on a permanent basis to supply funds to assist patients in hemodialysis training and on-going care. The board of trustees of the Kidney Association of Oregon has voiced recognition of future transplant activities as a natural evolution of the present singular function performed at this time.

An organ transplant program, to be conducted at Good Samaritan Hospital & Medical Center, has been authorized by the Board of Trustees of the Hospital. When the surgeons involved enter this phase of the program, the dialysis work of the Center will offer support.

The Kidney Association of Oregon is presently organizing chapters in various cities of the state for the purpose of enlarging its scope of financial support.

Several of the renal patients, accepted in the present program, have come from cities in other parts of the State. On each of these occasions, a local chapter has been organized in the community for the purpose of providing funds to be administered by the Kidney Association of Oregon.

The organizational program includes alerting newspapers, radio and television stations, and directing a full scale publicity program in a fund raising effort.

This type of program is to be continued in addition to the organization of local chapters in other communities.

The interest of the official State government in the welfare of end failure renal patients is continuing, as evidenced by the attached letter from State Senator Ted Hallock. Senator Hallock was a co-sponsor of the bill which appropriated state funds for renal patients during the last legislative session.

During the period of the grant, both the Oregon Kidney Association and Good Samaritan Hospital & Medical Center will continue to explore all possible sources of new revenue to support a continuation of this program.

Potential sources of support include: the Comprehensive Health Program, the Regional Medical Program, additional funds from the State of Oregon, funds from both state and federal rehabilitation programs, Title 19 of the Medicare program, insurance programs, support from the United Good Neighbors, grants from private foundations, local philanthropy and further development of the fund raising efforts now being conducted throughout the state by the Oregon Kidney Association.

7. PROJECT STAFFING

The Good Samaritan Dialysis training center is an operating function with adequate staff available to immediately carry out the program as outlined in this application.

Dr. Charles L. Martinson, the project director, is an internist, who has taken special post graduate training in hemodialysis for end-stage renal patients, under Dr. Belding Scribner at the University of Washington. Since January 1, 1968, he has been the medical director of the Good Samaritan Center. Prior to that time, he worked closely with Dr. Richard F. Drake, who previously directed the Center.

Dr. John F. Hayes, who would provide the cannula surgery, has been serving in this capacity since the inauguration of dialysis

training at Good Samaritan in 1962. Under this program he would devote 10% of his time to staff service, and would bill for each cannula surgery at a nominal fee.

Dr. Otto Page, an internist who has been identified with the Good Samaritan dialysis program since its inception, would continue to serve as a medical consultant.

Dr. Christopher Blagg of the University of Washington home hemodialysis program, and Dr. Bernice Barnett, who is now working in a kidney program in San Francisco, are also to serve as consultants to the Good Samaritan Center. Either one or the other will visit the Portland Center, at sixy day intervals.

Miss Jeannie Lawrence, R.N., the chief kidney nurse in the project has occupied this position in the Good Samaritan program for four years. Her experience includes the care of both chronic and acute renal problems requiring hemodialysis. During this period she has continually been engaged in the training of patients for home dialysis and has assisted other hospitals and centers in the establishment of dialysis programs, and has demontrated the use of artificial kidney equipment.

The other two registered nurses, affiliated with the project, have had special training in hemodialysis under Miss Lawrence, Dr. Drake and Dr. Martinson.

Robert L. Eash, the chief kidney technician, has served three and a half years in this capacity at Good Samaritan's center. His work in the training of patients in "building the artificial kidney", care and maintenance of the equipment and in applying the solution concentrates, has been very effective.

An assistant kidney technician is used and is needed particularly when the Center has several patients, for relief, and when the Center personnel is away on training missions.

8. FACILITIES AVAILABLE

The training center is located on the second floor of a building originally constructed as a dormitory for the Hospital's school of nursing. This building is directly across the street from the main hospital. The entire East wing of the second floor of this building is used exclusively as a hemodialysis training facility for patients with end-stage renal disease. There are eight rooms in the suite, as well as dressing, shower, and lavatory facilities for patients and family members. The unit occupies a total of 2200 square feet of floor space. (Floor plan attached)

Three of the rooms in the suite are specifically designated as patient rooms, used for the training of an individual patient and his relative. A fourth room, presently used as an examination room, could be easily converted into a patient treatment room. Individual dialysate supply systems are used for the patients, each patient receiving his training on the equipment which he subsequently takes home with him. Each patient room is equipped with a water supply and a drain to accommodate the single-pass dialysate delivery unit. The electrical power supply for each dialysate delivery system is separate from the main power supply for the rest of the building. The chemical content of Portland's water makes it adequate for use in dialysis without special treatment.

One room in the suite is used as a "kidney laboratory" for the building, maintenance, and storage of the Kill dialyzers. There are two sinks with attached drainboards to permit the "building" of two dialyzers at the same time. The facilities closely resemble those found in the home.

Another room of the unit is used for storage of consumable supplies, storage of extra equipment, and for the general use of the technician who is in charge of storage and inventory maintenance.

Inasmuch as the analytical determinations required by the project are made in the Hospital's central laboratory, no separate laboratory facilities are required.

The last two rooms of the suite are designated as offices. One of these accommodates the medical director, the other is utilized by the nursing and technician staff.

9. PROJECT BUDGET

This is primarily a home hemodialysis training program and the financial obligation of the project to a patient is confined to the periods of hospitalization for cannulation, eight weeks of training and ten months of dialysis in the patient's own home. Consequently the budget does not reflect a pyramiding cost of the type to be anticipated if the perpetual care of the patients is charged to the project.

Following the period specified in this application, the patients will be dependent upon their own resources, insurance and support supplied by the Kidney Association of Oregon. The Kidney Association of Oregon will have increasing costs each year in maintaining patients, but these costs are not applicable to this budget, and except as indicated, these costs will occur after the end of the project's responsibility to the patients.

Because the project does not involve continual on-going care for the patients the cost of training and maintaining the patients on home dialysis reaches its peak in the second year. Consequently the budgets for the second through fifth year of the project are much the same. Provision is made for salary increases during these years.

A degree of mortality among end-stage renal patients is recognized in the equipment demands of the budget for the third through fifth years. During the third and succeeding years it is anticipated that a portion of the artificial kidney units, dialysers and pumps can be recovered for reassignment to new patients. Probably much of this equipment will require factory reconstruction; however, a savings of 10 percent in the cost of equipment purchase is projected.

The budget makes provision for three consultants. Dr. Page practices in Good Samaritan Hospital and is available for consultation at all times. Dr. Blagg is affiliated with the University of Washington Kidney program and the budget provides an annual stipend of $1,500 for his service, plus travel costs from Seattle for bi-monthly visits to the Portland Center. Dr. Barnett is associated with a kndney center in San Francisco. The budget also provides an annual fee of $1,500 for her with additional provision for her travel to Portland six times yearly.

A list of the equipment included in the kits to be supplied each patient is detailed in Addendum No. 2.

The laboratory procedures required during the training period are listed in Addendum No. 3.

The laboratory procedures or tests to be made during the ten month period of home dialysis are detailed in Addendum No. 4. It is anticipated these tests will be made in the patient's home town under the direction of the patient's attending physician, whenever possible.

Details of the costs of both original and recannulation procedures are listed in Addendum No. 5.

The costs of supplies, chemicals, laboratory determinations, drugs, etc., for the first year are based on 23 patient months of training and 55 patient months on home dialysis. During the second and succeeding years the budget provides for 24 patient months of training and 120 patient months of home dialysis. Supplies used during training are listed in Addendum No. 7. The monthly supply needs during home dialysis are listed in Addendum No. 6.

Each patient and his physician will be supplied a copy of the Center's "Patient Manual" on dialysis procedure, at a cost of $5.00 per copy. The physician attending each patient will be supplied a copy of the University of Washington's "Physicians' Manual" at a cost of $2.50 a copy.

The budget provides $500 a year each for the project director and the chief kidney nurse to attend the annual meeting of the American Society of Artificial Internal Organs and an additional $500 for use of the project director to visit other kidney centers to observe any new treatment techniques or newly devised equipment being used.

Mr. WILLIAMS of Delaware. Mr. President, I hope the Senate approves this amendment. It does not destroy the bill or its objectives. The bill, as it now stands, would provide $516,800,000 for 1971, $621,700,000 for 1972, and $737 million for 1973. I will not mention 1974 or 1975 which were added in the Senate bill but not in the House. Altogether for the 3 years the amount would be $1.874 billion.

The adoption of this amendment, rolling the Senate figure back to the House figure for those 3 years, would reduce the amount by $125 million or to about $1.7 billion. Certainly rolling the figure back $125 million to the House figure is not being unrealistic nor is it trying to destroy the program.

Mr. President, I wish to refer to the statement of the Director of the Budget which was received by me under date of August 31 of this year, and I refer to their comments on this bill, S. 3355. I shall not read the entire letter, but it is summed up in this one sentence:

> However, in light of the serious fiscal situation now foreseen, we think the authorization levels currently contained in S. 3355 are not realistic.

They do not support it in the present form. This amendment merely rolls the amounts back to the House figure, with a cut in 1971 of $25 million, in 1972 of $50 million, and in 1973 of $50 million, for a total of $125 million over the 3-year period.

I think the very least the Senate can do, realizing the serious deficit with which we are confronted, is to agree to the amendment.

Mr. President, I am ready to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware (Mr. WILLIAMS) on page 10, lines 8, 9, and 10. 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. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho, (Mr . CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the

Senator from Wyoming (Mr. McGEE), the Senator from South Dakota (Mr. McGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa, (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. McGEE), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Connecticut (Mr. RIBICOFF) would each vote "nay."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are absent on official business.

The Senator from Kentucky (Mr. COOPER) and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Massachusetts (Mr. BROOKE) would vote "nay."

On this vote, the Senator from Colorado (Mr. DOMINICK) is paired with the Senator from California (Mr. MURPHY). If present and voting, the Senator from Colorado would vote "yea" and the Senator from California would vote "nay."

On this vote, the Senator from South Dakota (Mr. MUNDT) is paired with the Senator from Vermont (Mr. PROUTY). If present and voting, the Senator from South Dakota would vote "yea" and the Senator from Vermont would vote "nay."

On this vote, the Senator from Texas (Mr. TOWER) is paired with the Senator from New York (Mr. GOODELL). If present and voting, the Senator from Texas would vote "yea" and the Senator from New York would vote "nay."

The result was announced—yeas 8, nays 48, as follows:

[No. 284 Leg.]

YEAS—8

Bellmon	Griffin	Thurmond
Curtis	Hruska	Williams, Del.
Dole	Miller	

NAYS—48

Allen	Hart	Pastore
Allott	Hatfield	Pearson
Anderson	Holland	Pell
Baker	Hollings	Percy
Bayh	Inouye	Proxmire
Byrd, W. Va.	Javits	Randolph
Case	Jordan, N.C.	Saxbe
Cook	Jordan, Idaho	Scott
Cranston	Long	Smith, Maine
Eagleton	Mansfield	Smith, Ill.
Eastland	McClellan	Sparkman
Ellender	McIntyre	Spong
Ervin	Mondale	Stennis
Gore	Moss	Stevens
Gravel	Nelson	Talmadge
Harris	Packwood	Yarborough

NOT VOTING—44

Aiken	Fulbright	Montoya
Bennett	Goldwater	Mundt
Bible	Goodell	Murphy
Boggs	Gurney	Muskie
Brooke	Hansen	Prouty
Burdick	Hartke	Ribicoff
Byrd, Va.	Hughes	Russell
Cannon	Jackson	Schweiker
Church	Kennedy	Symington
Cooper	Magnuson	Tower
Cotton	Mathias	Tydings
Dodd	McCarthy	Williams, N.J.
Dominick	McGee	Young, N. Dak.
Fannin	McGovern	Young, Ohio
Fong	Metcalf	

So the amendments of Mr. WILLIAMS of Delaware were rejected.

Mr. YARBOROUGH. Mr. President, I move to reconsider the vote by which the amendment was rejected.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. WILLIAMS of Delaware. Mr. President, I intended to offer another amendment, but in the light of the recent vote, which I am sure illustrates the sentiment of the Senate, I shall not offer it; I abide by the Senate's decision. I merely point out that we shall be voting here on a bill providing $3.594 billion over a 5-year period. The House bill had provided for a 3-year period a total of $1.874 billion. The Senate bill, on the same 3-year period, would increase the authorization in the House bill by around $350 million to $400 million. In addition, the Senate bill adds $1.7 billion for the 2 years beyond the House bill. Altogether the bill we are voting on will cost about $2 billion more than the two comparable bills sent over by the House of Representatives.

The Senate has made its decision, but I think it is unfortunate; and I quote again the statement of the Director of the Budget:

> In the light of the serious fiscal situation now foreseen, we think the authorization levels currently contained in S. 3355 are not realistic.

They go on to point out that the figures in the Senate bill are so far above the budget that they cannot support them.

Mr. YARBOROUGH. Mr. President, I point out that this 3½ billion is for the fight against cancer, heart disease, stroke, and other major diseases, and that averages out, for the 200 million American people, to an average expenditure of about $2.50 a year per citizen, to try to help fight these wasting diseases so seriously affecting the American people.

When we consider that it costs $146,000, by the Defense Department's figures, to kill one Vietcong, I think this is a very modest expenditure in behalf of the American people.

Mr. WILLIAMS of Delaware. Mr. President, I agree that we need to consider the health of our Nation, and I only hope none of the taxpayers when they realize the size of the tax bills created by this extravagant Congress will have heart failure.

Mr. CRANSTON. Mr. President, I rise in support of S. 3355.

First, I would like to congratulate the distinguished chairman of the Labor and Public Welfare Committee, Senator YARBOROUGH, who is also chairman of the Health Subcommittee, for his outstanding leadership in developing S. 3355. The bill as reported out by the committee will make substantial improvement in the operation of several basic health programs, and I believe Senator YARBOROUGH deserves great credit for this achievement.

I certainly do not need to bring to the attention of the Members of the Senate the acute shortages our Nation faces in all aspects of medical care—health manpower, health care facilities, health services, health training, and health research facilities. These shortages all cause critical deficiencies in the delivery of health care to the individual in the community. Congress, in the past 5 years has taken some dramatic legislative steps to forestall the collapse of our so-called "health system," and with very promising results, by providing for greater utilization of existing and projected facilities and resources through planning mechanisms and cooperative efforts built into the community health structure. Among these enactments were those creating comprehensive State health planning—CHP—and regional medical programs—RMP. Both of these programs are extended in S. 3355.

Mr. President, I would like to discuss several amendments to S. 3355 which I offered and which were accepted unanimously in committee. First were amendments—in sections 106(2), 108(3), and 220(6) of the bill—to provide for the representation on an ex officio basis of the Veterans' Administration on the advisory bodies to State health planning agencies and regional medical programs, as well as on the RMP National Advisory Council.

One common base of RMP and CHP programs is a firm foundation in existing community medical resources with the goal of expanding and coordinating these resources to improve the health care provided to the members of the community.

The hospital and other medical facilities of the Veterans' Administration also have a vital interest in the development of the community's health resources. And, on their part, the communities stand to gain substantially from a closer association with this most extensive of Federal health systems. The

beneficiaries of the Veterans' Administration have close ties with the community through their families, and, of course, are themselves members of the community; thus the state of their health is closely related to the health of other members of the community, and planning for health care delivery in the communities is incomplete if it does not take into account the services provided by the VA facilities.

These services and facilities are extensive, and the number of individuals served each year is sizable. The Veterans' Administration has 166 hospitals in the United States, whose total daily census is about 85,960. In fiscal year 1971 it is estimated total admissions to VA hospitals will be 875,883, while total outpatient visits will be 7,852,000.

These VA facilities cannot operate at top efficiency when isolated from the resources of the community. In turn, the contributions these facilities make to improving medical care and increasing medical manpower are highly beneficial to the community. Half of all medical students receive a portion of their training in a VA facility. One-fifth of our physicians have received residency training at these facilities, and in all, some 40,000 professionals and paraprofessionals receive training each year in VA facilities. VA medical research has resulted in improved treatment procedures in many disease categories. Strengthening the ties between this Federal system and the community system would create a potential for even greater achievement in both sectors.

In many instances, close involvement of VA and other Federal medical facilities with community facilities and programs is already a fact, and has proven highly beneficial to all concerned. But in some areas such relationships are minimal or nonexistent. I believe that the advisory council representation I have proposed offers a sound mechanism for greater communication between, and coordination of, health programs, but not for domination of one system over the other. Thus, representation on these advisory groups would be required only where there are appropriate facilities of the VA within the geographic area involved, and such representation would be on an ex officio basis.

Mr. President, I wish to make perfectly clear that my amendments are intended in no way to dilute the authority of community representatives in developing and administering health programs, but rather to expand the community's vision to encompass all facilities within their geographical area. Neither are they intended to impose any restrictions on the VA medical system, but rather to foster greater communication between that system and community health programs for their mutual benefit.

Representation of the Veterans' Administration on the State health planning advisory councils should result in, first, better coordination of planning for facilities construction; second, better planning for costly specialized medical units; third, greater ability to determine the State's competence to train medical personnel needed for its population; and fourth, improved planning for the optimum delivery of health care of the State's residents. Informal methods of participation already exist in VA/CHP relationships, particularly in arrangements with areawide, 314(b), sponsored programs. I believe this salutary trend can be expanded by the closer relationship at the State level which S. 3355 would require.

Representation of the VA on RMP advisory councils will insure that VA treatment procedures are up to date with the most modern developments and techniques. Likewise, new techniques developed in the VA system can be immediately brought to the attention of the community. The RMP-sponsored continuing education program in the treatment and prevention of diseases will have a highly beneficial impact on all VA hospitals, particularly those in remote areas. Many of the university-affiliated VA hospitals in turn can make outstanding contributions to development of these educational programs. In the critical disease areas of the regional medical programs, treatment facilities and procedures are highly specialized and extremely costly and normally are not operated 100 percent of the time. A great opportunity exists for sharing or joint planning in the establishment of such facilities.

Important advances have been made in the extent of participation of VA hospitals in regional medical programs. Currently 72 VA hospitals are participating in 39 of the 54 operating RMP's. In many areas, these cooperative efforts have been highly successful and have encouraged a trend toward more valuable interrelationships.

In 1965, when regional medical programs were first authorized by Public Law 89–239, the bill as reported and passed by the Senate included the Chief Medical Director of the VA as an exofficio member of the National Advisory Council. Later, the Senate adopted the House bill without change, and that bill did not include VA representation. I believe the Chief Medical Director should attend and participate as a nonvoting member in meetings of this council. Certainly the Nation's largest medical system should be in communication with those who are advising on regional medical programs, and such representation, now provided for in S. 3355, would assure this communication.

The benefits of such coordination to the veteran are clearly documented in a recent article published in the Journal of Public Health, written by Dr. John W. Walsh, one of the outstanding VA hospital directors. Mr. President, I ask unanimous consent that this article be printed in the RECORD at the conclusion of my remarks.

During committee consideration of S. 3355, I also introduced a number of amendments which give full recognition to the important role home health care can and should play in the Nation's medical care system. I was very pleased that all were accepted by the members of the committee.

These amendments, first, include home health care programs as an integral part of regional medical programs; second, place research and demonstration projects in home health care on an equal priority with those health care methods highlighted as eligible for grants awarded for research and development in health services delivery; and third, assure that in planning for the delivery of health services at both the State and area level, full consideration be given to the potential of home health care services to meet health needs.

Because of the importance which I attach to home health care as a means of solving a number of deficiencies in our health care system, I would like to speak extensively about the history of this medical technique and the unrealized opportunities it offers for many, many sick and disabled persons with no alternative to becoming institutionalized to receive health care.

Mr. President, among various systems of health care delivery developed and improved upon within the past few years, one of the most promising yet least perfected and recognized is the system of home health care. Although home health care is certainly not a novel program—in the United States, the first organized program was established in 1796—several more recent developments have created a demand that these programs provide highly sophisticated, efficient, medical services as a complementary system to the inpatient and outpatient services generally thought of as the basic health delivery system.

These recent developments include medical advances which have made it possible to save many lives that in previous decades would have been lost to disease and accidents. In addition, the average lifespan has vastly increased due to improved medical techniques and increased knowledge in the treatment and prevention of disease. The result has been a much larger population, with a higher proportion of elderly individuals who are particularly subject to chronic illness, and an increase in the number of individuals of all ages who are temporarily or permanently disabled. Many of these individuals are not ill to the extent that an acute care hospital bed or full-time institutional care is needed. But they are not ambulatory enough to utilize outpatient facilities, and physician-directed medical care is essential to their recovery.

A second major development in recent years has been the sharp increase in the cost of hospital care, due partly to the expense of acquiring and staffing the new equipment and services modern medicine has produced and partly to increased operating costs and increased construction and renovation costs. Unfortunately, the cost of delivering hospital care has increased at a higher rate than the overall cost of living. These higher hospital expenses are included in overhead costs and transferred to the patient in the daily charge for his hospital bed. Thus, the hospitalized convalescent or chronically ill patient shares the burden of the cost of expensive acute care even though he is not utilizing it.

A third factor encouraging the development of home health care service has

been the increase in the utilization of hospital beds. The growth of third party private insurance plans and the enactment of medicare has made hospitalization possible for many who in previous years were unable to afford it when they needed it. At the same time, most of these insurance plans provide reimbursement only for services performed during hospitalization, which restriction has served to increase hospital utilization substantially. As a result, many hospitals, particularly in urban areas, are operating at 95 percent capacity. Accordingly, communities and hospitals have been pressed to find methods of relieving the hospital of overcrowding and to insure the availability of the necessary number of beds for emergency situations. The result has been the establishment of a number of hospital-based home health care agencies, as well as agencies affiliated with one or more hospitals.

Currently, some of the major private third-party insurance plans include in their coverage the cost of posthospitalization home health care services, and in a few cases include prehospitalization services. Among prepaid group practice plans, Kaiser Permanente in Oregon pioneered in demonstrating the efficacy of including home care programs among the services provided its membership. Home health care services are now included in the benefits provided by about one-fourth of the prepaid group practices in the United States.

Congress at an early date recognized the potential of home health care services to meet these new demands on the health care delivery system. In adopting the Medicare Act, title 18 of the Social Security Act, Congress in 1965 included home health care service as a reimbursable service under both part A, "Hospital Insurance Benefits for the Aged," and part B, "Supplementary Medical Insurance Benefits for the Aged." These provisions made it economically feasible for individuals over 65 to utilize home health care services and at the same time provided some assurance to those wishing to develop such services in the community that there would be a demand from patients with financial ability to pay for the services so that investment in home health care systems would be economically viable. At the same time, Congress provided, through special appropriations in 1966 and 1967, seed money to foster the establishment of home health care agencies which could meet the certification requirements of medicare.

These relatively recent developments have changed the concept of home health care and have brought about the creation of new patterns of delivering that care. Whereas originally, home health care was limited to the provision of a single service—such as a visiting nurse, or a homemaker aide—today the emphasis is on providing multiple services.

Special impetus to the development of a more complex home health care agency was provided by medicare through requirements that only those agencies providing nursing plus one other service—either physical therapy, occupational therapy, speech therapy, medical social services, or home health aid services—could be certified for medicare participation. However, of the over 2,100 certified home health agencies only 78 provide the full range of services suggested but not required by the certification requirements. And over half of the agencies are at the minimum level, limiting their services to a nurse plus only one of the five other services.

I wish to note that as with any developing new field, there have been some problems and deficiencies in home health care systems. Many existing agencies were hurriedly established in 1966 and 1967 following the enactment of medicare. Consequently, they were not properly planned and failed to develop close relationships with other medical services in the community. Recent concerns have been expressed by the Social Security Administration about abuses in the home health programs, and an instructional release has been issued to their carriers and intermediaries emphasizing the legislative requirements governing reimbursement for home health care services. The intent of these provisions is to permit the reimbursement for home health services only where such services are determined by the physician to be essential to the patient's recovery and are a less expensive alternative to institutional care.

I strongly endorse the principle and requirement in the Social Security Act that any treatment program carried out by home health agencies must initially be prescribed by a physician after a visit to the homesite and should be actively monitored by a physician through continued personal, direct contact with the patient.

An important home care milestone is the development in a few communities of a comprehensive pattern of home health service—called the coordinated home care program. This type of program holds a tremendous potential for meeting many of the deficiencies of existing health delivery systems. These programs coordinate a wide range of home services around the needs of an individual patient as prescribed by his physician; they are centrally administered; and operate on a team concept in providing multidisciplinary services which can include medical, dental, nursing, social, educational, or other related services.

Ideally, such a coordinated home care program has relationships with other services in the community, such as hospitals—to assure immediate availability of hospital inpatient services when needed—laboratory and radiology services, occupational and physical therapy services, psychological services, educational services, and many, many others. Under these circumstances, the program becomes a full partner in the community system of health and social services and provides those types of services which can both be provided most efficiently in a home situation and at the same time be closely coordinated with more complex systems for the provision of necessary services beyond the scope of the home health care program. Unfortunately, the number of home care agencies which have developed this comprehensive, coordinated approach is still very small.

Despite the progress I have outlined, much still needs to be done in this increasingly important field:

First. The distribution of home care agencies throughout the country is very uneven. Fifty-four percent of the counties in the country have no home health care coverage. Many of these are rural or sparsely populated counties, but among them are 99 counties with populations over 50,000. In these 99 counties there are many hospitals, extended care facilities, mental health centers, a few rehabilitation centers, but not a single home health care agency. Moreover, only five States have home health care agencies available for 100 percent of the population and only another 13 States have these services available for 90 to 99 percent of their population. Seven have them available for 75 to 90 percent. Seventeen States have these services available for 50 to 75 percent of their population, and eight have these services available for less than 50 percent of their population. Thus, there is an obvious need to develop these home health care programs in many areas of the United States.

Second. At the same time, new methods of administration of home health services need to be developed. Each community has its own needs, and each pattern of home health care has its particular utility depending on the circumstances of the patient and the circumstances of the health delivery system and other related systems of the community. In some communities, the services may be hospital-based or multihospital-based; in others they may be organized independently of any existing medical agency; in still others they might come under the auspices of a single agency or a multiagency council. A rural community may have a very limited base of health services on which a home health care program can be built, while an urban community may have such a wealth of programs that its challenge may lie in utilizing them fully or in overcoming entrenched but outmoded attitudes of providing services. Many communities have found it difficult to break into long-standing medical care patterns traditionally built around institutional care. Many existing home health care agencies were established without adequate community planning and support and as a result are inadequate to the particular needs of that community. Thus, considerable study is still necessary to develop further the various methods and scope of delivery of home health care services and to determine means of matching particular models to a particular community's needs and resources.

Third. There is a need for adapting treatment procedures for additional diseases to the home health care delivery method. Significant opportunities exist for treatment at home in the area of the premature infant, the mentally ill, the chronically ill, especially in the area of

renal or respiratory diseases, and the spinal cord injured. The child of working parents who becomes ill may require a parent to stay home from work to supervise him. Home care services offer responsible care for such a child without jeopardizing the parent's job career or financial stability. Home health care can be provided the terminal patient, giving him the psychological boost of familiar surroundings and warm loving attention so essential to maintaining his spirits. Finally, a great potential exists in the provision of home health care services prior to hospitalization, particularly in the case of elective surgery, where the first days of hospitalization may be devoted to undergoing a battery of tests which could be provided at home at considerably less expense.

Fourth. Experiments and demonstrations in the innovative use of allied health personnel in home health care programs need to be developed. Opportunities also exist for the development of programs to train the nonprofessional health aide as an extension of the professional worker in the home setting. A special potential for expanding health manpower resources offered by home care programs is the opportunity they provide to utilize on a part-time basis the professional who is unable to meet the rigid schedule of a full-time job in an institutional setting.

Fifth. Studies need to be undertaken in the area of cost effectiveness to develop a formula which could determine with reasonable precision the moment where the transfer of a patient to or from a hospital or other medical facility would be most economical, as well as medically productive, both for the institution and the patient and his family. These studies need not be confined to the more complex home health care systems. Indeed, the recent report of the staff to the Senate Committee on Finance on "Medicare and Medicaid, Problems, Issues, and Alternatives," recommended consideration of extending medicare benefits to include homemaker costs in home health coverage as an alternative to more costly institutional care. The report stated:

> Many physicians and a number of health insurers have pointed out the pressure for continued hospitalization of a patient for several days more than medically necessary because of the lack of someone to assist the patient at home with food preparation, routine cleaning, etc., during the first week or two following discharge from the hospital. During that period, the patient gradually recovers capacity for independent living and ability to meet his routine living needs. In the absence of assistance at home during that recuperative period, physicians are understandably reluctant to discharge patients and patients are reluctant to go home. The present alternative to continued hospitalization is to discharge the patient to an extended care facility or skilled nursing home, which, while less costly than hospital care, is still quite expensive and often encompasses more care than those patients need. (S. Rept. No. 744, 90th Cong., 1st Sess. (Nov. 14, 1969).)

Sixth. To encourage greater utilization of home health care services, there is a need to find means of giving recognition and visibility to home care programs, both in the medical community and in the consumer's community. A study undertaken in 1964 under the direction of Dr. Roger Egeberg, now Assistant Secretary for Health and Scientific Affairs in the Department of Health, Education, and Welfare, showed that 7 percent of hospital patients were medically suited for home health care. Yet currently only 2½ percent of hospital patients are being discharged to home health care programs. This discrepancy is due to the fact that many individuals in communities are unaware of the availability of home care services and many doctors also are equally unaware of the extent of the availability of such services, or are unaccustomed to utilizing the services effectively, if at all. Fuller exposure of the medical student to home care programs should be included in his medical school training so that he can learn early in his career the value of such services in the treatment of his patients.

Underutilization of home health care services is also caused to some extent by the limitations of private third-party insurance plans in including such services in their coverage. In those cases where it is covered, it usually is reimbursable only following hospitalization. And even where covered in private third-party insurance plans and in medicare there is considerable underutilization of the services. A study of medicare beneficiaries who were hospitalized during 1 year, indicated that the rate of utilization of home health care per State ranged from 3.2 individuals per 1,000 hospitalized to 37.8 per 1,000, with the individual State average being 13.2 individuals per 1,000 hospitalized.

When the expensive daily costs of hospital care are considered, this wide differential in the use of home health care services indicates that considerable savings might have been realized had home health care services been fully utilized. For example, a Blue Cross study of some 2,500 Blue Cross, medicare, and other patients in Philadelphia indicated that by utilizing home care services for these patients, some 33,000 hospital days were saved. For each patient the saving represented an average of 13 days of inpatient hospital care, and the cost of home health care on the average was roughly one-half that of the same care provided in a hospital.

Underutilization of home care services following hospital treatment can also be attributed to a lack of adequate hospital patient-discharge planning due partly to inertia in changing established patterns of care and partly to the lack of financial motive for the hospital, the physician, and the family. The hospital, if not operating at capacity, loses revenue; the physician's reimbursable services are not covered as fully as in the case of a hospitalized patient; and the family may find home care more expensive in terms both of utilization of their own time, and financially in that only limited coverage or none may be available—for example, after the initial benefits are used up in the case of medicare, reimbursement is limited to 80 percent of the costs.

In sum the potential for improvement and development of home health care programs is almost unlimited. Experience and recent research findings have shown that home health care programs can accelerate the rate of recovery from illness, can prevent or postpone disability, can reduce the time of hospitalization, can prevent rehospitalization, and can achieve these results at lower cost than the same services provided in an institutional setting. Benefits to the patient are considerable, economically in terms of reduced cost of care and psychologically in terms of a comfortable recovery in a noninstitutional, familiar, home environment. The amendments made to S. 3355 will encourage the development of new and the improvement of existing home health care agencies and services.

The amendments to title IX of the Public Health Service Act—sections 102 (b) and 104(a) of the bill—are intended to emphasize that home health care is an important method of care to be utilized in regional medical programs. The critical diseases which are the major concern of regional medical programs are particularly appropriate for home care treatment. Three instances applicable to RMP are described in an article "Home Health Service—Past, Present, Future," in the September 1969 issue of the American Journal of Public Health, as follows:

> 1. In one community, program evaluation had revealed that not a single patient with terminal cancer had been admitted to the home although many cancer patients had remained in hospitals until death. The following year, a concerted effort by hospital and home care staffs resulted in home care for selected patients with terminal cancer. Patient and family response was encouraging. The patients were more at ease and required fewer sedatives and drugs for pain; the families were better able to cope with grief. In general, these terminal patients were better off, both physically and mentally, in the home setting.
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> 2. Growing concern in the health field over the restricted number of patients who can receive intermittent renal dialysis in hospital centers suggests the need for dialysis at home. The development of a portable dialysis unit, and evidence that continuing intermittent renal dialysis can be carried on at home . . . makes utilization of home care programs particularly pertinent to treatment of kidney disease. (The Veterans' Administration is already carrying out home dialysis in ten areas.)
>
> 3. St. Luke's Hospital in New York City has instituted a home health nursing program for outpatients with heart disease. The addition of public health nursing visits as follow-up to the outpatient cardiac program has reduced the rate of hospitalization for congestive heart failure. The staff feels that an anticipatory home care program based in a community hospital "has great potential both for improving the health status of patients with chronic illness and for bringing the hospital closer to its community."

These examples, I believe, are clear evidence of the need to include home health care programs as an integral part of procedures utilized in regional medical programs.

An amendment to section 304(a) of the Public Health Service Act—section 203(2) of the bill—would place research in home health care in its proper per-

spective as a full member of a comprehensive health care delivery system. There is a continuing need for research in this special means of health care delivery to, first, find better methods of delivering home health care; second, find additional medical fields in which home health care can be utilized; third, develop innovative uses of new types of allied health professionals; and fourth, undertake studies to enable the doctor to determine the most effective way of caring for the individual patient—home care or institutional care—and when the transition should occur. This amendment would give research in home health care the same priority as research in other modes of health services delivery.

The amendments to section 314(a) and (b) of the Public Health Service Act—sections 220(d) and 230(b) of the bill—would encourage the utilization of home health care services in the community and would encourage the development of additional agencies and programs by identifying home health care as a service that should be included in health services planning at both the State and areawide level. To meet community needs adequately, home health agencies must be planned and developed with the full cooperation and counsel of the areawide comprehensive health planning agency (314(b)). This participation would be assured by these amendments in S. 3355.

I also feel special efforts should be made by the 314(a) and 314(b) agencies to seek representation on their advisory councils of representatives of substantial home health care programs to insure that this kind of service is given full consideration in the planning of community and State health services.

Furthermore, in the development of State plans for the utilization of section 314(d) formula money, I believe that each State should be strongly encouraged to devote a portion of its funds to encourage the establishment of home health services and to the support of one or more individuals whose function would be to provide guidance and counsel to existing home health care agencies in methods of improving their utilization within the community and meeting the specific health needs of the community. Section 1902(a)(24) of the Social Security Act requires that each State provide consultative services to home health agencies, among other types of facilities, to assist them in qualifying for reimbursement under the provisions of medicaid. Thus a nucleus already exists for these additional counseling functions.

Greater emphasis must also be placed in the allocation of section 314(e) funds on the establishment of home health agencies or the provision of home health services. In particular, I recommend to the Secretary of Health, Education, and Welfare that in granting funds for the establishment of comprehensive health care programs, such programs in all cases include the delivery of home health care services. Currently, I understand, 33 primary health care projects are being funded by section 314(e) grants. Of these 33 projects funded for the purpose of providing comprehensive health care to a select group or to a community, 12 fail to mention the provision of home health care services; eight plan to refer cases which require home care to other existing agencies, in many instances, the Visiting Nurse Association; and only 13 include home health care services as a component of their program. My proposal would insure that in all these projects, due consideration would be given to the feasibility of including home health care services among those provided by the program.

Considerable opportunity exists in the Hill-Burton program—support of hospital and other health facilities construction—for encouraging such facilities to utilize both prehospitalization and posthospitalization home health care services. In the awarding of grants or other forms of support for these facilities, recipients should be encouraged to provide such services either directly or through arrangements with an existing home health care agency.

As a member of the Health Subcommittee of the Labor and Public Welfare Committee over the past 20 months since I entered the Senate, I have become greatly concerned about the impending crisis in our total health delivery system—if a system it is—and about the need to prod the medical community to move far faster in adjusting to today's needs, yesterday's means of caring for the sick, rehabilitating the disabled, and preventing injury and disease. I believe that S. 3355 can provide some of that necessary impetus by giving home health care the full recognition it requires as an important functioning part of a health care delivery system suited to today's needs and by encouraging full utilization of these services in plans for improving the delivery of comprehensive and specialized health services in our communities.

Mr. President, at the same time, as chairman of the Subcommittee on Veterans' Affairs of the Labor and Public Welfare Committee and in line with my particular interest in the Veterans' Administration medical program, I plan to introduce amendments to section 612 (a) and (f) of title 38, United States Code, which will give impetus to the provision of home health care services as part of the outpatient medical services provided a veteran for a service-connected disability, before, after, and independent of hospitalization. These same home health care services would also be made available to a veteran eligible for hospitalization and treatment even though his injury or illness is not service connected.

These new authorities would enable the Veterans' Administration more efficiently to perform its vital function of providing first quality modern health care for our veterans.

Mr. President, I was also privileged to cosponsor two amendments to this bill. Senator PROUTY'S amendment to title IX of the Public Health Service Act—section 104(b) of the bill—would enable regional medical programs, after they have well-established activities in the prevention, diagnosis, treatment, and rehabilitation of the critical diseases which are the special responsibility of RMP, to develop and demonstrate systems for the organization and delivery of medical care. I believe this amendment will give those medical experts whose participation makes regional medical programs so successful, the much needed flexibility to expand their activities, if they wish, to include systems for the delivery of health services.

Similarly, I was pleased to cosponsor with Senator KENNEDY, a provision—section 401 of the bill—which would foster the development and use of prepaid group practice systems. Such systems, I believe, hold great promise in meeting the deficiencies of our health delivery system, by emphasizing preventive care, and by treating the "individual" rather than his disease. The most notable example of prepaid group practice is the Kaiser Permanent program, originally conceived by Henry Kaiser in the depression years of 1933–38 in southern California. Today the Kaiser plan has 2 million subscribers served by numerous outpatient centers, five clinics, and 22 hospitals in six States. The plan provides comprehensive care at an annual cost of $100 per capita, or only two-thirds the cost of comparable care in most other parts of the country.

Mr. President, I have spoken so extensively about S. 3355 because I feel it is a piece of legislation which offers substantial promise for affecting the way in which health care is provided in this country. Improving our methods of health care delivery is, I feel, the greatest challenge in the years ahead to those dedicated to helping our Nation overcome the health crisis now upon us.

The regional medical programs in many States—I know particularly about the excellent programs in my own State of California—are already contributing substantially to this end. Under this bill, I believe that these RMP's as well as the expanded programs of the comprehensive health planning agencies will be afforded the opportunity to make still more vital and impressive contributions to health care in our country.

Again, I congratulate the author of this bill, Senator YARBOROUGH, for his great initiative and leadership and thank him and my other colleagues on the Labor and Public Welfare Committee for their support of my amendments to the bill. I urge overwhelming support for this very greatly needed piece of health legislation.

I ask unanimous consent to have printed in the RECORD an article entitled "Planning Health Care for Veterans."

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

PLANNING HEALTH CARE FOR VETERANS

(By John W. Walsh, M.D.)

Veterans Administration planning must be based, as a minimum, on these considerations: Size and characteristics of the veteran population; eligibility of the veteran to receive care from the Veterans Administration; ability of the veteran to receive care from a non-VA provider of health care; changes in

the health field which affect all Americans, including veterans; and the mission of the VA as a whole, and the mission of each VA field installation.

As of December 31, 1968, there were about 26.5 million veterans—veterans being defined as having been on active duty during periods of time determined by Congress as wartime service. It is estimated that, with 800,000 personnel discharged from service annually, there will be more than 28 million veterans by the early 1970s. Of these 26.5 million veterans, 1.7 million served in World War I, 14.7 million in World War II, and more than 10 million have been on active duty in more recent years.

Of particular importance for future planning is the discontinuity in the ages of the population served. In the 1960s, VA medical care—particularly hospital care—for the most part has been directed to older veterans of World War I and prior military service. This is not unexpected because of the tendency to use medical care systems with advancing age. The average age of World War I veterans is 74 years and that of World War II veterans is 49 years.

The usage of Veterans Administration hospital facilities rises rapidly as the veteran ages. A recent review of our hospitalization rate per 1,000 veterans revealed the following relationship:

Veteran age and hospital utilization rate per 1,000 veterans

Under 35	1.40
35–44	2.67
45–54	4.21
55–64	7.78
65–74	12.45
75 and up	19.20

Thus, discontinuity and the hospital utilization rate must be considered when one attempts to make long-range projections using current experience. The large proportion of our recent inpatient demand has been generated by the older World War I veteran who, of course, is eligible for non-VA service under Public Law 89–97. What needs to be considered, however, is what impact the 14 million veterans of World War II will have on the VA medical care system, as they enter the sixth decade of life. Their impact will require considerable study.

ELIGIBILITY OF VETERANS TO RECEIVE CARE FROM THE VETERANS ADMINISTRATION

Absolute right for both inpatient and outpatient care exists, of course, for the veteran who needs treatment for his service-incurred disability or disease. Lesser degrees of eligibility have been established by either congressional legislation or by regulation for other segments of the veteran population. For instance, the Spanish American veteran is entitled to outpatient care for any disability, whether or not incurred in service.

A veteran who has no service-connected disability or disease can receive hospital care provided (a) he needs it on medical grounds; (b) he signs a statement of inability to defray his own expenses. However, eligibility for inpatient care does not imply eligibility for outpatient care for a nonservice-connected condition. Medical eligibility is not automatic. In a recent 12-month period, the VA received 1,054,700 applications for hospital care but admitted only 647,241. Only 65 per cent of applicants were deemed medically eligible.

Financial eligibility is a complex problem. Congress, in approving the post-World War II expansion of the VA hospital system, affirmed the need for a veteran to state, in writing, his inability to defray hospital costs. At other times, VA has been enjoined against questioning the veteran's signature.

Because it is essential that only those nonservice-connected (NSC) veterans who are in financial difficulty be admitted to VA hospitals, the VA has been asking the NSC veteran to fill out a financial addendum when he submits his request for hospital care. His fiscal statement is reviewed in the light of prevailing medical care costs for treatment of his condition. If the VA review of the financial statement suggests the applicant can afford it, he is advised that he ought to consider treatment elsewhere. If he insists on VA treatment in spite of counseling, he is given the benefit of the doubt, but his financial statement is referred to VA attorneys for possible recovery of costs later.

Sometimes, a veteran claims that he cannot afford to pay for his hospital care, but he is covered by third-party insurance. Unfortunately, however, many hospital and medical insurance plans stipulate that the policy does not cover medical care by the federal government, so that VA recoveries from insurance carriers are not substantial. The experience of Philadelphia VA Hospital in effecting such recoveries is typical of many others. During the fiscal year ending June 30, 1969, 851 patients were discharged. Although a *theoretical* $146,000 might have been collected, our *actual* reimbursement was just under $22,000.

The veteran, aged 65 and over, has dual eligibility for medical care through the Social Security Trust Fund and the Veterans Administration. Public Law 89–97, however, has a specific interdiction against reimbursement of federal hospitals for care of Medicare beneficiaries. Whether Congress will change this stipulation is unknown.

ABILITY OF A VETERAN TO RECEIVE MEDICAL CARE FROM NON-VA PROVIDERS

Ability of a veteran to receive medical care from non-VA providers is a subject which varies widely from community to community Medical care costs, the availability of physicians, bed occupancy, the patient's condition, and local policy all have a bearing. It is the writer's impression that the larger, more affluent communities and service areas expect the VA to be responsible only for the medical care of the service-connected veteran. They expect the community to consider the veteran with a nonservice-connected condition as if he were not a veteran.

On the other hand, the less affluent and often smaller community, which is having money problems of its own, often assumes no responsibility for a veteran, whether his condition is service-connected or not. It is not uncommon for a man to request medical assistance only to be told that he is a veteran, and the "VA should take care of you." If "taking care of him" involves admission to the hospital, there is no problem. However, the problem still exists when he requires only outpatient care, for the VA may have no legal authority to give it to him.

INFLUENCE OF CHANGES IN THE HEALTH FIELD ON VA MEDICAL CARE SYSTEM

Let us examine, first, the various non-VA health programs which might have an impact on the Veterans Administration. As of May 31, 1969, the VA had 44,764 beds for the care of psychiatric patients. Some of the beds were in large psychiatric institutions, others in general hospitals in accordance with the 1961 recommendations of the Presidents' Commission on Mental Illness and Health.

Of the 2,011,323 veterans receiving compensation for service-connected disabilities, approximately 440,255 have a significant service-connected psychiatric or neurological disorder.[1] National experience recently indicated that the demand for hospital care for mental illness is falling. VA experience parallels non-VA findings, for the number of veterans waiting for admission to a psychiatric inpatient program is decreasing.[2] Length of stay is shorter and there is increased reliance on ambulatory treatment.

The goals of the community mental health centers program are to have 500 in 1970. Presumably the large psychiatric hospital is to be a thing of the past. The question facing VA planners, however, is whether the changing program will, in effect, provide for the psychiatric veteran, particularly the nonservice-connected psychotic. The VA, on at least two occasions, has attempted to reduce its inpatient load by transferring veterans to the care of a community center, but without success.

In the spring of 1967, VA hospital directors were asked to determine from local authorities how care for the psychiatric veteran was to be included in the over-all community or state plan. Although excellent responses were received from a few locations, the vast majority of the answers forwarded to headquarters suggested that no interrelationship between VA and the community was envisioned. The lack of community interrelationship is disturbing, particularly when one recalls the comment by the National Commission on Community Health Services:

"Separate systems of health care now exist for many groups in the population, such as veterans, labor organizations, merchant seamen, and the medically indigent. The welding of separate systems into a community-wide program would preclude new construction or expansion of hospitals for separate population groups." [3]

The Heart Disease, Cancer and Stroke Program developed from the famous DeBakey Report.[4] In enacting Public Law 89–239, Congress somewhat departed from the original ideas of the DeBakey Committee, although the concept of centers of research and information dissemination on a regional basis has been retained. The Report to the President of June 30, 1967, emphasizes the extent to which funds for *planning* grants have been effectively utilized. On the other hand, the number of *operational* grants—monies to actually implement the results of grants—is limited so far, with 40 operational grants in 55 regions.[5]

A preliminary review of the grants points out how intimately VA may be involved in Regional Medical Programs (RMP). Among our 166 VA hospitals, some 47 installations have at least some minimal operational responsibility through research and teaching affiliations with medical schools. In 18 instances, the RMP has resulted in a major VA commitment. However, one needs to hedge—to be cautious—with regard to projections in this program.

The original legislation authorized the expenditure of $340 million over a period of three years, but only part of this has actually been appropriated. One can visualize a problem developing in which limitation of funds for Public Law 89-239 would result in the educational institutions receiving adequate operational funds without their counterpart—the affiliated VA hospital—receiving anything. To have veteran medical care keep pace with other activity in the community may require the VA Central Office to add additional funds to the operating budget of the VA hospitals.

Medicare and Medicaid—actually the Social Security Amendments of 1965—have had a major impact in this country. From a broad viewpoint, they have relieved the financial and psychological burden from the older American's illness or disability. Concurrent with (but not necessarily because of) this legislation, medical care costs have risen, and the length of hospital stay increased more than one day.

As might be expected, VA hospital admissions of the veteran who is 65 years and over have decreased since July 1, 1966. Our planning problem, however, is to "blue sky" the question as to whether the Medicare effect

Footnotes at end of article.

will be a sustained one. A preliminary study of the Minneapolis area suggested that the impact of Title XVIII was considerable. However, as we followed this program more carefully, we found that the initial effect was not maintained. Some transitory changes are due to seasonal factors. Other changes in demand may be related to the fact that the extended care features of Medicare did not become operative until January 1, 1967.

The veteran, aged 65 and over, has dual entitlement. He can receive medical care under Public Law 89–97, or he can come to the VA for inpatient care. Some may even elect to use both systems. As part of the VA's admission procedure, we point out to a veteran, 65 years and over, that his community hospital has the facilities to treat his illness. Some veterans decline admission when so advised, while others still request VA treatment for a number of reasons—personal preference, reluctance to pay the deductible costs, or availability of a bed. Medicaid, or Title XIX of Public Law 89–97, has not, in the writer's opinion, had its final permanent effect on the Veterans Administration. The full impact may not be apparent for many years.

Comprehensive Health Planning legislation has been passed in two successive Congresses. Although it is difficult to summarize all the important changes, embodied in Public Laws 89–749 and 90–174, the following are particularly pertinent from the VA viewpoint: Authority for planning the delivery of health care is to be vested in a central office in a political jurisdiction, such as a state. This central planning agency will interrelate all the needs for health care in the area under its jurisdiction. Perhaps there will be adjudication of the needs of the mentally ill versus the physically ill; or the needs for new construction versus operation of existing facilities; or perhaps decisions will be needed to determine which portion of the population more urgently needs care.

To strengthen the planning authority of each state and political jurisdiction, Congress has departed from its previous position of appropriating funds for specific diseases, such as tuberculosis or venereal disease. Instead, funds will be disbursed to the states on a more or less lump-sum basis, with the states determining which categories of disease most urgently need correction.

The legislation assumes that all portions of the economy which deliver health care must, and will cooperate in providing such care to all the population in the most economic manner feasible. Machinery to initiate cooperation between the public and the private sectors of the economy will be established. In addition, the various public sectors—local, state, and federal (including, of course, the Veterans Administration)—will be called upon to work together more closely than before.

The type of cooperative planning envisioned in Public Laws 89–749 and 90–174 is not new. Community fund programs and Hill-Burton agencies have been doing this for decades. More recently, the Regional Medical Program, the Model Cities legislation, and the OEO programs have entered the field. It will take some time to blend the planning efforts fostered by different legislation. As these various disciplines crystallize their thinking, the mission of the VA installations will become clearer.

MISSION OF THE VETERANS ADMINISTRATION

For decades, the VA medical program has been considered to have three types of medical facilities: (a) hospitals for inpatient care of eligible veterans; (b) domiciliaries ("soldiers homes") for "bed and board" care for those veterans whose combined medical and economic condition precluded them from independent living; (c) outpatient clinics for some veterans to receive ambulatory medical care, and for others to be examined to determine the extent of their disabilities.

Hospitals were originally designed to provide medical, surgical, psychiatric, and nursing care for veterans who were in need of hospital bed care, and who were eligible for such care. But VA hospitals—as is the case with community hospitals—have undergone considerable change in their role. With the growth of medical school affiliations after World War II, many VA hospitals became more than simply a place to treat service-connected veterans. VA hospitals developed extensive residency training programs. They afforded medical students opportunities for clinical clerkships. In 1967, 46 per cent of all medical school graduates had received part of their education in VA institutions.

The VA-medical school affiliation, which now exists in 89 of the 166 hospitals, has been a two-way street. The medical school affiliation enhances medical treatment for veterans; it provides additional "teaching beds" for medical schools. In a number of communities, the VA hospital has become an integral part of the university medical center, virtually indistinguishable from the university and community hospitals associated with the center.

The mission of such an affiliated hospital, therefore, not only includes inpatient care, but also the education of health manpower. In addition, the hospital has an important role in follow-up medical care. When it became apparent, a number of years ago, that the length of stay in VA hospitals was being prolonged because of the ineligibility of nonservice-connected veterans to receive nonbed care, Congress authorized prebed care (PBC) and posthospital care (PHC) for those nonservice-connected veterans who require bed care. The legislation (Public Law 86–639) has accomplished its purpose, for the VA length of stay has decreased in recent years. Of all veterans treated in VA hospitals in fiscal year 1968, 7.1 per cent had prehospital "workups" and 46.4 per cent had at least one follow-up visit.

As a result of such legislation, VA clinics are providing more ambulatory medical care. Of course, they continue to treat veterans with service-connected disabilities, and continue to determine, for monetary purposes, the extent of existing disabilities. In addition, they also provide ambulatory medical care for some nonservice-connected veterans, mostly those who would otherwise occupy an expensive hospital bed.

It might be argued that pre- and posthospital care have opened the door to unlimited outpatient care for NSC veterans. So far, this has not occurred; in fact, it has not even occurred with respect to hospital bed care for all veterans. Although there were more than 26 million veterans potentially eligible for hospitalization in fiscal year 1967, less than half a million were actually admitted. Many VA hospitals had no significant waiting lists all year.

The VA domiciliaries, or soldiers homes, gradually have undergone change too. It almost went unnoticed that, in 1965, the VA closed two domiciliaries when it finally closed five hospitals. Those 16 which remain are gradually changing to meet changing demands.

To the long-standing tradition of having three types of medical facilities—hospitals, clinics, and domiciliaries—the 88th Congress also requested VA to initiate a program of extended care facilities. Currently, there are 4,000 nursing-home type beds operated by VA, and plans to expand this figure to 6,000 are being developed.[6]

SUMMARY

Planning health care for more than 27 million veterans is a difficult problem. All veterans do not have the same needs for health care. The resources of the community, and the community approach to its responsibility for veterans, in large measure will determine the medical care mission of Veterans Administration facilities. As the National Commission on Community Health Services emphasized, there must be greater VA-community interaction as this country develops its health care delivery systems.

FOOTNOTES

[1] Annual Report 1968 Administrator of Veterans Affairs, Washington, D.C.: Gov. Ptg. Office, p. 272.

[2] Veterans Administration Medical and Hospital Program. Hearings before the Subcommittee on Hospitals, House Committee on Veterans Affairs, 91st Congress, First Session (Apr. 15–May 13), 1969, p. 1075.

[3] Health Is a Community Affair, National Commission on Community Health Services. Harvard University Press, 1966, p. 20.

[4] Report to the President: A National Program to Conquer Heart Disease, Cancer and Stroke. Dr. Michael E. DeBakey, et. al. (Feb.), 1965.

[5] Progress Report. Division of Regional Medical Programs, Health Services and Mental Health Administration, PHS-DHEW. (Apr.), 1969.

[6] Proceedings, American Legion National Rehabilitation Conference. (Mar.), 1969, p. 208.

Mr. NELSON. Mr. President, I want to associate myself with the closing remarks by the junior Senator from California (Mr. CRANSTON) in support of this vitally important health legislation.

I would also like to take this opportunity to review another subject related to the comprehensive health planning program.

When the Senate Labor and Public Welfare Committee considered H.R. 11102, the medical facilities construction and modernization bill, earlier this year, the Senator from California (Mr. CRANSTON), the Senator from Rhode Island (Mr. PELL), and I were successful in amending the Senate bill to provide that once the Secretary of HEW determines that a State comprehensive health planning agency has developed effective plans that are in harmony with the purposes of the Hill-Burton program, the State Hill-Burton plan must be consistent with those plans developed by the State comprehensive health planning agency.

In 1966, when the 89th Congress included the concept of comprehensive health planning in the partnership for health amendments, it was felt that the previous lack of planning and control in health services had resulted in fragmentation, unnecessary and costly duplication and virtually no unified attack on poor health care.

However, until this year the present Hill-Burton statute did not require any coordination between the State agency administering Hill-Burton programs and the State agency responsible for comprehensive health planning.

The original administration Hill-Burton bill required approval of Hill-Burton projects by the State comprehensive planning agency while the House-passed bill gave the State or local area—planning agency an opportunity to consider project applications.

If the State comprehensive planning agency is expected to carry out the legislative mandate to coordinate health planning within a State, it was our belief that Hill-Burton projects should be "in accordance with" State comprehensive plans that are developed.

Presently, State plans providing public health services under section 314(d), including activities such as immunization

projects, mental health programs, and the training of State and local health personnel, must be "in accordance with" the comprehensive health plans of each State.

Our amendment would have had the effect of extending this coordination with State comprehensive health plans to Hill-Burton State plans.

Those States that have not yet developed an effective State planning organization and an effective State comprehensive plan would not have been affected by this provision.

However, our amendment would have enabled those States which have or soon will have an effective plan to gain the benefits of true comprehensive health planning in their States.

In addition, it would have established a firm objective for other States to work toward in the development of their comprehensive health planning programs.

Several States have already taken the initiative to establish formal or informal coordination between the Hill-Burton and comprehensive health planning agencies in their States.

Our amendment would have given formal recognition to these arrangements and offered an incentive for other States to also establish this coordination.

When the Senate and House conferees met to discuss the Senate and House versions of H.R. 11102 to extend the Hill-Burton program, there was thorough discussion of this provision in the Senate bill.

Agreement was reached, based on a proposal made by a House conferee, that the Senate would recede on its provision requiring the approval of Hill-Burton State plans by certain State comprehensive planning agencies on the condition that there be language in the conference report indicating that it should be expected at the expiration of the program's new authorization that Hill-Burton plans or projects would be made by statute subject to the approval of comprehensive health planning agencies. Also, the House provision on project review by planning agencies was adopted as an initial step toward better coordination.

However, due to an oversight in the drafting of the conference report, there was no reference to this understanding in the report.

On June 18 Senator CRANSTON and I wrote to the chairman of the House Interstate and Foreign Commerce Committee, Congressman HARLEY O. STAGGERS, regarding the absence of this agreed-upon report language.

On June 23, Congressman STAGGERS responded to our letter and I ask unanimous consent that his letter be printed in the RECORD at this time.

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

CONGRESS OF THE UNITED STATES,
Washington, D.C., June 23, 1970.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Thank you for your joint letter of June 18 with Senator Alan Cranston concerning language which the Conferees on H.R. 11102 agreed would be included in the statement of the Managers on the part of the House with respect to approval of Hill-Burton plans.

This language did not appear in the statement of the Managers due to an oversight, but should have been included therein.

In the near future the House will consider H.R. 18110, providing an extension of the comprehensive health planning program, and in my remarks on the floor in connection with that legislation I will state that we expect to give serious consideration in connection with the next renewal of the Hill-Burton program to providing oversight authority to comprehensive health planning agencies at both state and local levels over the programs and projects for hospitals and other health facilities construction. I intend to make this statement, regardless of the outcome in connection with the consideration of the President's veto of H.R. 11102.

Sincerely yours,
HARLEY O. STAGGERS,
Member of Congress, Chairman.

Mr. NELSON. The remarks that Congressman STAGGERS mentioned in his letter did appear in the House report on H.R. 18110, which was published on July 20, 1970.

I hope that this review of the background of our amendment and the understanding that was reached during the House-Senate conference on the Hill-Burton program will make the record on this proposal absolutely clear so that our proposal will be considered in the proper light when the Hill-Burton program is again considered by Congress.

Mr. CRANSTON. Mr. President, I am pleased that the Senator from Wisconsin took the time to outline the legislative history of our proposed amendment to H.R. 11102 to improve the coordination between State comprehensive planning agencies and State Hill-Burton agencies.

While a Hill-Burton agency and its statutory advisory council have a responsibility to develop an annual health facilities construction plan based on local need, resources and priorities, that agency's area of responsibility is limited to only those health facilities for which Federal assistance is requested for construction. The comprehensive health planning agency is the only one which has an overall responsibility for determining need and priority regardless of the construction funding source.

Furthermore, in keeping with their legislative mandates to coordinate and plan comprehensively for all health needs, State and areawise planning agencies are endeavoring to establish informal and/or formal coordinating channels with Hill-Burton agencies. The current situations in California, Minnesota, West Virginia, Illinois, Florida, Oklahoma, and New York are good examples of the varying levels and forms of health planning and Hill-Burton relationships already formed.

Presently, these State comprehensive health planning agencies are in varying states of development, but in general they have moved rapidly through the organizational stages into substantive planning. Enabling legislation for comprehensive health planning was signed November 3, 1966 and the first grant was made to Illinois in July 1967.

Already, though, a number of the young comprehensive health planning agencies are demonstrating their effectiveness in unifying the attack on poor health care and eliminating duplication of resources including facilities, manpower, and services.

Furthermore, many State Governors, State legislatures, and others have repeatedly demonstrated their confidence in the capabilities of comprehensive health planning agencies by virtue of the specific responsibilities they have assigned to them, including in many instances the review of Hill-Burton applications.

California's Office of Comprehensive Health Planning is located in the State department of public health and is responsible directly to the director's office.

The functions and responsibilities of the State advisory hospital council—Hill-Burton review—have been transferred to the State health planning council—CHP.

In a series of legislative actions, California has recently tied State and areawide health planning to facility licensure, construction, loan insurance, and payment under Medi-Cal. Licenses for new construction, conversion, or facility additions are to be issued only upon a favorable recommendation to the licensing authority—the State health department—by an area health planning agency. Presently there are eight funded areawide CHP agencies in California and a ninth is being organized so that the State's total geographic area will be covered by nine areawide health planning agencies.

In Idaho, the State legislature enacted a recommendation by the Committee on Health Facilities of the Governor's Advisory Council on Comprehensive Health Planning for the licensing of nursing home administrators.

The Idaho State Board of Health has also accepted a council recommendation that the State board of health, as the health facilities licensing authority, review and amend licensure requirements to the end that licenses issued to various types of health facilities more accurately reflect the level of services provided by the facility.

Also, in Idaho, by direction of the State administrator of health, the State health planning agency reviews all Hill-Burton applications.

Hill-Burton applications in Wyoming are being referred to the State health planning agency voluntarily for review and comment.

The Colorado State Comprehensive Health Planning agency officially reviews all health aspects of construction and planning grants for the State.

In Minnesota, the State health planning agency's efforts were instrumental in getting the legislature to authorize the development of all State hospitals as multipurpose regional centers with programs for mentally ill, mentally retarded, and inebriate patients. Previously this

type of care was being delivered in a fragmented, categorical manner. When the new centers are developed the quality and efficiency of care should be vastly improved.

These activities are an important start in involving health planning agencies in facilities construction decisions. I agree with Senator NELSON that such involvement must become the rule in the years ahead.

Mr. SCOTT. Mr. President, the Senate is considering the Health Services Improvement Act of 1970, a part of which extends and improves existing regional medical programs. These programs function as coordinated systems to provide specialized services for the benefit of physicians and patients. Pennsylvania has fared well under this program and I urge my colleagues to give the regional medical plan this added boost.

Pennsylvania is divided into three medical regions: First, Greater Delaware Valley; second, Susquehanna Valley; and third, Western Pennsylvania. These regions, in concert, serve the entire Commonwealth.

The Greater Delaware Valley regional medical program covers eastern Pennsylvania, with a population of 8.2 million. During the current year, this program will receive $3.2 million. Since receiving its first planning grant in 1967, it has received $7.3 million.

Several outstanding programs are now in effect in the Greater Delaware Valley region. Wilkes-Barre, Reading, and Allentown are the focal points for an intensive and successful coronary care training program. A pediatric pulmonary disease program is now operating in Philadelphia.

Pennsylvania's second medical region is designated as the Susquehanna Valley program. This region covers 27 counties in central Pennsylvania with a population of 2.1 million. This year, it will be allocated nearly $832,000 to boost its total to $1.6 million. The first planning grant was received in 1967.

The Susquehanna medical region boasts two noteworthy projects. One, in Altoona, is the establishment of a stroke unit to serve as a consultation and training resource for practicing physicians and nurses. The other project, operating from the Geissinger Medical Center in Sunbury, is a coronary care unit serving in a nurses' training program. It is the only such program in a surrounding eight-county area. But because of its existence, several neighboring hospitals are planning to establish units to serve auxiliary functions.

The third medical region in the Commonwealth is the western Pennsylvania regional program. It is centered in Pittsburgh and serves 28 surrounding counties with a population of 4.2 million. Since receiving its first planning grant in 1967, the region has received over $2 million.

In Pittsburgh, there is a program for long-term training of nursing home personnel. It is one of the best comprehensive continuing education programs in existence. A second outstanding program in the western Pennsylvania region is the regional medical library system which links over 100 hospitals in the 28-county area.

Regional medical care is one answer to the continuing crisis in health care. The regional concept allows the sharing of trained personnel and medical resources to keep down the cost of health and to increase the effectiveness of health services. I support this concept and hope that the pending legislation will continue to assist Pennsylvania in the years to come.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1132, (H.R. 17570), the House-passed companion bill.

The PRESIDING OFFICER (Mr. Moss). The bill will be stated by title.

The assistant legislative clerk read as follows: Calendar No. 1132 (H.R. 17570) to amend title IX of the Public Health Service Act so as to extend and improve the existing program relating to education, research, training, and demonstrations in the fields of heart disease, cancer, stroke, and other related diseases, 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. YARBOROUGH. Mr. President, I ask unanimous consent to strike out all after the enacting clause of H.R. 17570 and to insert in lieu thereof the text of S. 3355, as now amended by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The question is on agreeing to the amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill (H.R. 17570) was read the third time.

The PRESIDING OFFICER (Mr. Moss). The bill 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 assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), and the Senator from Ohio (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) and the Senator from New Jersey (Mr. WILLIAMS) are officially absent.

I further announce that, if present and voting, the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from Massachusetts (Mr. BROOKE), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. MURPHY) and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator of Delaware (Mr. BOGGS), the Senator from Maryland (Mr. MATHIAS) and the Senator from Pennsylvania (Mr. SCHWEIKER) are absent on official business.

The Senator from North Dakota (Mr. YOUNG) is detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Vermont (Mr. PROUTY) and the Senator from Texas (Mr. TOWER) would each vote "yea."

The result was announced—yeas 56, nays 1, as follows:

[No. 285 Leg.]

YEAS—56

Allen	Griffin	Packwood
Allott	Harris	Pastore
Anderson	Hart	Pearson
Baker	Hatfield	Pell
Bayh	Holland	Percy
Bellmon	Hollings	Proxmire
Byrd, W. Va.	Hruska	Randolph
Case	Inouye	Saxbe
Cook	Javits	Scott
Cooper	Jordan, N.C.	Smith, Maine
Cranston	Jordan, Idaho	Smith, Ill.
Curtis	Long	Sparkman
Dole	Mansfield	Spong
Eagleton	McClellan	Stennis
Eastland	McIntyre	Stevens
Ellender	Miller	Talmadge
Ervin	Mondale	Thurmond
Gore	Moss	Yarborough
Gravel	Nelson	

NAYS—1

Williams, Del.

NOT VOTING—43

Aiken	Goldwater	Mundt
Bennett	Goodell	Murphy
Bible	Gurney	Muskie
Boggs	Hansen	Prouty
Brooke	Hartke	Ribicoff
Burdick	Hughes	Russell
Byrd, Va.	Jackson	Schweiker
Cannon	Kennedy	Symington
Church	Magnuson	Tower
Cotton	Mathias	Tydings
Dodd	McCarthy	Williams, N.J.
Dominick	McGee	Young, N. Dak.
Fannin	McGovern	Young, Ohio
Fong	Metcalf	
Fulbright	Montoya	

So the bill (H.R. 17570) was passed.

The title was amended, so as to read:

A bill to amend titles III and IX of the Public Health Service Act so as to revise, extend, and improve the programs of research, investigation, education, training, and demonstrations authorized thereunder, and for other purposes.

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

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

The motion to lay on the table was agreed to.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of the Senate amendment, to make certain technical corrections.

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

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that Calendar No. 1100, S. 3355, be indefinitely postponed.

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

Mr. YARBOROUGH. Mr. President, I move that the Senate insist on its amendment on H.R. 17570 and request a conference with the House thereon, 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 appointed Mr. YARBOROUGH, Mr. WILLIAMS of New Jersey, Mr. KENNEDY, Mr. EAGLETON, Mr. CRANSTON, Mr. HUGHES, Mr. PELL, Mr. DOMINICK, Mr. JAVITS, Mr. MURPHY, Mr. PROUTY, and Mr. SAXBE conferees on the part of the Senate.

REFERRAL OF BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that Calendar No. 1131, H.R. 18110, be referred to the Committee on Labor and Public Welfare.

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

AIRCRAFT HIJACKING

Mr. JAVITS. Mr. President, I have just come from a conference with the Secretary of State on this matter. Aircraft hijacking is piracy which the community of nations no longer can tolerate. For centuries civilized nations, individually and collectively, have acted to suppress piracy on the high seas. President Thomas Jefferson set the precedent for our Nation through his courageous actions against the Barbary pirates in 1801. Suppressive action against the modern pirates of the skies is long overdue.

Concerted international action against organized groups committing air piracy should be initiated immediately. Members of such groups should be denied access to all means of international travel. They should be denied entry into foreign countries and all international airports. They should be denied visas and passports. Nations harboring organizations engaged in hijacking must bear prime responsibility for the suppression and disbandment of these groups. Nations unable or unwilling to move effectively against such organizations within their borders should be ostracized through the denial of all means of international transport.

The current situation involving the holding of hostages is a particularly acute challenge to the community of nations and to the United Nations. The immediate task is to save the lives of the hostages and to rescue them from their mad captors. These hostages of all nations must have the deepest sympathy and concern of all civilized mankind, which can feel only outrage for the criminal conduct of those who hold them captive.

One thing is clear, Mr. President. Not one of the hostages is any different from another with regard to national origin or religion, and the civilized world is responsible for and can accept nothing less than the release of all, whether they be from Britain, Switzerland, Germany, or the United States.

Looked at beyond this crisis, the Palestine-Arab refugee situation which spawned these hijackings reflects the bankruptcy of international policy as manifested by UNRWA. This is the whirlwind reaped by those Arab States which have used the refugees as pawns in their efforts to try to discredit Israel; and the tragedy of the Palestinian-Arab refugees caught in a historic crisis is what they have suffered at the hands of their Arab brothers. Now this catastrophic policy has produced the commando madness. One of the first items on the agenda of the U.N. General Assembly at its coming session must be the Palestine-Arab refugee question. The nations maintaining UNRWA simply cannot continue to pour money into this self-perpetuating failure. A better and saner way must be found. Error has been compounded for so long on this question that disaster has overtaken us.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provisions of 20 United States Code 42 and 43, the Speaker had appointed Mr. ROONEY of New York as a member of the Board of Regents of the Smithsonian Institution, to fill the existing vacancy thereon.

The message also informed the Senate that, pursuant to the provision of section 601, title 6, Public Law 250, 77th Congress, the Speaker had appointed Mr. WHITTEN of Mississippi as a member of the Committee to Investigate Nonessential Federal Expenditures, to fill an existing vacancy thereon.

HEALTH INSURANCE FOR FEDERAL EMPLOYEES AND ANNUITANTS

Mr. PELL. Mr. President, on September 1, the Senate passed two items on the call of the Legislative Calendar which dealt with identical subject matters—S. 1772 and H.R. 16968. Before the error was discovered, the House companion item was messaged back to the House. It has now been returned to the Senate and is at the desk.

Having already vacated the previous action on the Senate bill, and to dispose of the matter as originally intended, I ask unanimous consent that the vote by which H.R. 16968 was read the third time and passed be reconsidered, and that the Senate proceed to the consideration of S. 1772.

The PRESIDING OFFICER. The passage of H.R. 16968 will be reconsidered together with the third reading and the Senate bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1772) to provide that the Federal Government shall pay one-half of the cost of health insurance for Federal employees and annuitants.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Rhode Island to proceed to the consideration of the Senate bill? The Chair hears none, and it is so ordered.

The Senate proceeded to consider the bill, which had been reported from the Committee on Post Office and Civil Service with an amendment, to strike out all after the enacting clause and insert:

S. 1772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as provided by subsection (b) of section 8906 of title 5, United States Code, effective from the first day of the first pay period which begins on or after July 1, 1970, and continuing until the first day of the first pay period which begins on or after January 1, 1971, the biweekly Government contribution for health benefits for an employee or annuitant enrolled under a health benefits plan under chapter 89 of title 5, United States Code, shall be equal to 40 percent of the average of the subscription charges in effect on the beginning date of the adjustment, with respect to self alone or self and family enrollments, as applicable, for the highest level of benefits offered by—

"(1) the service benefit plan;

"(2) the indemnity benefit plan;

"(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission; and

"(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.".

SEC. 2. Effective January 1, 1971, section 8906(a) of title 5, United States Code, is amended to read as follows:

"(a) The Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted on the first day of the first pay period of each year to an amount equal to 40 percent of the average of the subscription charges in effect on the beginning date of the adjustment, with respect to self alone or self and family enrollments, as applicable, for the highest level of benefits offered by—

"(1) the service benefits plan;

"(2) the indemnity benefit plan;

"(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission; and

"(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.".

SEC. 3. (a) Section 8901(3)(B) of title 5, United States Code, is amended to read as follows:

"(B) a member of a family who receives an immediate annuity as the survivor of an employee or of a retired employee described by subparagraph (A) of this paragraph;".

(b) Section 8901(3)(D)(i) of title 5, United States Code, is amended by striking out ", having completed 5 or more years of service,".

SEC. 4. (a) Section 8907(a)(B) of title 5, United States Code, is amended by inserting "and the Panama Canal Zone" immediately before the semicolon at the end thereof.

(b) Section 8901(1)(ii) of title 5, United States Code, is amended by inserting "and the Panama Canal Zone" immediately before the semicolon at the end thereof.

SEC. 5. (a) The Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86-724) is amended as follows:

(1) Section 2(4) is amended by inserting immediately before the period at the end thereof a comma and the following: "and includes the Social Security Administration for purposes of supplementary medical insurance provided by part B of title XVIII of the Social Security Act";

(2) Sections 4(a) and 6(a) are each amended by adding at the end thereof the following sentence: "The immediately preceding sentence shall not apply with respect to the plan for supplementary medical insurance provided by part B of title XVIII of the Social Security Act.", and

(3) Section 9 is amended by adding at the end thereof the following subsection:

"(f) Notwithstanding any other provision of law, there shall be no recovery of any payments of Government contributions under section 4 or 6 of this Act from any person when, in the judgment of the Commission, such person is without fault and recovery would be contrary to equity and good conscience.".

(b) The amendments made by subsection (a) of this section shall become effective on October 1, 1970.

Mr. PELL. Mr. President, there is a technical committee amendment at the desk, and I call it up.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 7, after the word "after" strike out "July" and insert "October".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 16968.

The PRESIDING OFFICER. The bill will be stated by title.

The LEGISLATIVE CLERK. A bill (H.R. 16968) to provide for the adjustment of the Government contribution with respect to the health benefits coverage of Federal employees and annuitants, 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. PELL. Mr. President, I move to strike out all after the enacting clause of H.R. 16968 and to insert in lieu thereof the text of S. 1772, as amended.

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

Mr. GRIFFIN. I wish to indicate for the RECORD that this procedure has been cleared with Senators on this side of the aisle so far as the committee is concerned, and there is no objection of which I am aware.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

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

The bill was read the third time.

The PRESIDING OFFICER (Mr. Moss). The Chair would state that on H.R. 16968, just passed by the Senate, the title will be appropriately amended.

The PRESIDING OFFICER (Mr. Moss). The bill having been read the third time, the question is, Shall it pass?

The bill was passed.

Mr. PELL. Mr. President, I ask unanimous consent that S. 1772 be postponed indefinitely.

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

COMMISSION ON THE ORGANIZATION OF THE DISTRICT OF COLUMBIA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1134, H.R. 18725.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: H.R. 18725, to establish a Commission on the Organization of the Government of the District of Columbia and to provide for a Delegate to the House of Representatives from the District of Columbia.

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. ALLEN. Mr. President, I oppose the bill providing for a delegate from the District of Columbia in the U.S. House of Representatives. The District of Columbia is the seat of government of the Government of the United States of America. As such seat of government it belongs to all of the people of the United States, and is represented by 100 Senators and 435 Representatives. Each House of Congress has an able and dedicated Committee for the District of Columbia. Furthermore, the city of Washington has a municipal government which provides municipal services to the residents of Washington.

When the framers of the Constitution included a reference to a Federal district for the seat of government, it was their intent that the Congress should be protected from local political pressures during its deliberations.

I regard this bill as an entering wedge toward providing two U.S. Senators and one or two U.S. Representatives for the District of Columbia.

The bill is unwise and will start a chain reaction that will be extremely undesirable.

My vote will be cast against H.R. 18725.

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

Mr. MANSFIELD. Mr. President, I move that the vote by which the bill was passed be reconsidered.

Mr. BYRD of West Virginia and Mr. PELL moved that the motion to reconsider be laid on the table.

The motion to lay on the table was agreed to.

OFFICE OF DISASTER ASSISTANCE

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1175, S. 3619.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows: S. 3619, to create, within the Office of the President, an Office of Disaster Assistance, to revise and expand Federal programs for relief from the effects of major disasters, 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 Public Works with an amendment, to strike out all after the enacting clause and insert:

That this Act may be cited as the "Disaster Assistance Act of 1970".

TITLE I—FINDINGS AND DECLARATIONS; DEFINITIONS

FINDINGS AND DECLARATIONS

SEC. 101. (a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity; special measures, designed to expedite the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which in the determination of the President, is or threatens to be of sufficient severity and magnitude to

warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—GENERAL PROVISIONS

FEDERAL COORDINATING OFFICER

SEC. 201. (a) The President shall appoint, immediately upon his designation of a major disaster area, a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross and of other relief organizations which agree to operate under his advice or direction; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 202. The Director is authorized to form emergency support teams of personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201(b) of this Act.

COOPERATION OF FEDERAL AGENCIES

SEC. 203. (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage;

(B) making repairs to, or restoring to service, public facilities, belonging to State or local governments, which were damaged or destroyed by a major disaster except that the Federal contribution therefor shall not exceed the net cost of restoring such facilities to their capacity prior to such disaster;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a)(4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under section 203(a) from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) Any Federal agency designated by the President to exercise authority under this Act may establish such special groups, interdepartmental or otherwise, as it deems appropriate to assist in carrying out the provisions of law relating to Federal disaster preparedness and assistance, and the funds of any such agency may be utilized for the necessary expenses of any group so established.

(f) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(g) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(h) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 205. Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

STATE DISASTER PLANS

SEC. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disaster. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such

other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed $25,000 per annum to any State in an amount not to exceed 50 per centum of the cost for the purpose of improving, maintaining, and updating that State's disaster assistance plans.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 207. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other relief or disaster assistance organizations, in the distribution of medicine, food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under sections 208 and 209 of this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

SEC. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

ADVISORY PERSONNEL

SEC. 210. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization of relief and assistance resources and programs.

DISASTER WARNINGS

SEC. 211. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

PART B—EMERGENCY RELIEF

PREDISASTER ASSISTANCE

SEC. 221. To avert or lessen the effects of a major disaster, the President is authorized, without declaring a major disaster, to utilize Federal resources in providing disaster assistance to any State to assist such State or any local government thereof in circumstances which clearly indicate the imminent occurrence of a major disaster.

EMERGENCY COMMUNICATIONS

SEC. 222. The Director is authorized to establish emergency communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 223. The Director is authorized to provide public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

DEBRIS REMOVAL GRANTS

SEC. 224. The President, whenever he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing debris on privately owned lands or waters as a result of a major disaster, and is authorized to make payments through such State or local government for the removal of debris from community areas which may include the private property of an individual. No benefits will be available under this section unless such State or local government arranges unconditional authorization for removal of debris from such property and agrees to indemnify the Federal Government against any claims arising from such debris removal.

FIRE SUPPRESSION GRANTS

SEC. 225. The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TEMPORARY HOUSING ASSISTANCE

SEC. 226. (a) The Director is authorized to provide on a temporary basis, as prescribed in this section, dwelling accommodations for individuals and families who, as a result of a major disaster, are in need of assistance by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease. Notwithstanding any other provision of law, any existing dwellings, mobile homes, or readily fabricated dwellings acquired by purchase may be sold directly to individuals and families who are occupants of such temporary accommodations at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) After the initial ninety days of occupancy without charge, rental shall be established for such accommodations, under such rules and regulations as the Director may prescribe taking into account the financial resources of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months from the date of occupancy, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is excess of 25 per centum of the monthly income of the occupant or occupants.

(c) The Director is further authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, oral or written. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The Director shall, for the purposes of this subsection and in furtherance of the purposes of section 240 of this Act, provide reemployment assistance services to individuals who are unemployed as a result of a major disaster.

PART C—RECOVERY ASSISTANCE

SMALL BUSINESS DISASTER LOANS

SEC. 231. (a) In the administration of the disaster loan program under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage resulting from a major disaster as determined by the President or a disaster as determined by the Administrator, the Small Business Administration—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term

of the loan without regard to the ability of the borrower to make such payments;

(2) may make any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) in the case of the total destruction of, or substantial property damage to a home or business concern, may refinance any mortgage or other liens outstanding against the destroyed or damaged property if such refinancing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this subsection.

(b) Section 7 of the Small Business Act is amended—

(1) by revising paragraph (2) of subsection (b) to read as follows:

"(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic injury as a result of such disaster;";

(2) by striking from the second sentence of subsection (b) the following: "meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection,"; and

(3) by striking from subsection (f) the following: "in the case of property loss or damage as the result of a disaster which is a 'major disaster' as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)),".

FARMERS HOME ADMINISTRATION EMERGENCY LOANS

SEC. 232. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), and the rural housing loan program under section 502 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1472), in the case of loss or damage, resulting from a major disaster, to property, including household furnishings, the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so cancelled shall not exceed $2,500, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) in the case of the total destruction of, or substantial property damage to a home or business concern may refinance any mortgage or other liens outstanding against the destroyed or damaged property if such refinancing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

LOANS HELD BY THE VETERANS' ADMINISTRATION

SEC. 233. (1) Section 1820(a)(2) of title 38, United States Code, is amended to read as follows:

"(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;"

(2) Section 1820(f) of title 38, United States Code, is amended to read as follows:

"(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Administrator under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Assistance Act of 1970, the Administrator shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forbearance or indulgence to such owner as the Administrator determines to be warranted by the facts of the case and the circumstances of such owner."

DISASTER LOAN INTEREST RATES

SEC. 234. (a) Any loan made under the authority of sections 231, 232, 236(b), 237, or 241 of this Act shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of ten to twelve years less not to exceed 2 per centum per annum.

(b) The next to the last sentence of section 7(b) of the Small Business Act is amended by striking out all that follows "exceed" and inserting in lieu thereof the following: "a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods of maturity of ten to twelve years less not to exceed 2 per centum per annum."

AGE OF APPLICANT FOR LOANS

SEC. 235. In the administration of any Federal disaster loan program under the authority of sections 231, 232, or 233 of this Act, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

FEDERAL LOAN ADJUSTMENTS

SEC. 236. (a) In addition to the loan extension authority provided in section 12 of the Rural Electrification Act, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

AID TO MAJOR SOURCES OF EMPLOYMENT

SEC. 237. (a) The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 208 of this Act. Any loan made under this section shall be subject to the interest requirements of section 234 of this Act, but the President, if he deems it necessary, may defer payments of principal and interest for a period not to exceed three years after the date of the loan.

FOOD COUPONS AND DISTRIBUTION

SEC. 238. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 203 of this Act.

(b) The President, through the Secretary of Agriculture is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in a major disaster area.

LEGAL SERVICES

SEC. 239. Whence the Director determines that income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, he shall assure the availability of such legal services as may be needed by these individuals because of conditions created by a major disaster. Whenever feasible, and consistent with the goals of the program authorized by this section, the Director shall assure that the programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

UNEMPLOYMENT ASSISTANCE

SEC. 240. The President is authorized to provide to any individual unemployed as a result of a major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall not exceed the maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred, and the amount of assistance under this section to any such individual shall be reduced by any amount of

unemployment compensation or of private income protection insurance compensation available to such individual for such period of unemployment.

COMMUNITY DISASTER LOAN FUND

SEC. 241. (a) There is established within the Treasury a Community Disaster Loan Fund from which the President may authorize loans to local governments for the purposes of meeting payments of principal and interest on outstanding bonded indebtedness, for providing the local share of any Federal grant-in-aid program which is designed to assist in the restoration of an area damaged by a major disaster, or for providing and maintaining essential public services. Such loans shall be made only if the local government has suffered a loss of either more than 25 per centum of its tax base or such a substantial amount that it is otherwise unable to meet such payments, local share obligations, or the cost of essential public services.

(b) Loans from the Fund established by this section shall be without interest for the first two years, shall be made for such periods as may be necessary, not to exceed twenty years, and shall bear interest after the first two years at a rate prescribed in section 234. The President may defer initial payments on such a loan for a period not to exceed five years or half the term of the loan, whichever is less. Any loans under this section may be made for a local government's fiscal year in which the disaster occurred and for each of the following two fiscal years. Loans for any year shall not exceed the difference between the average annual property tax revenue received by the local government for the three-year period preceding the major disaster and the local government's accrued property tax revenue for each of the three years following the major disaster. For purposes of computations under this section, the tax rate and tax assessment valuation factors in effect at the time of the disaster shall not be reduced during the three-year period following the disaster.

(c) (1) The President may transfer to the Fund such sums as he may determine to be necessary from the appropriations available to him for disaster relief. All amounts received as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived from operations in connection with this section shall be deposited to the Fund.

(2) All loans, expenses, and payments pursuant to operations under this section shall be paid from the Fund. From time to time, and at least at the close of each fiscal year, there shall be paid from the Fund into the Treasury, as miscellaneous receipts, interest on the average amount of appropriations accumulated as capital to the Fund, less the average undisbursed cash balance in the Fund during the year. The rate of such interest shall not exceed any rate determined under section 234 for loans from the Fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the President determines that moneys in the Fund exceed the present and any reasonably prospective future requirements of the Fund, such excess may be transferred to the general fund of the Treasury or to the appropriations available to the President for disaster relief.

(d) There are hereby authorized to be appropriated such sums, not to exceed $100,000,000, as may be necessary to carry out the provisions of this section.

TIMBER SALE CONTRACTS

SEC. 242. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The President, when he determines it to be in the public interest, and acting through the Director of Emergency Preparedness, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

PUBLIC LAND ENTRYMEN

SEC. 243. The Secretary of the Interior is authorized to give any public land entryman such additional time in which to comply with any requirement of law in connection with any public land entry for lands affected by a major disaster as the Secretary finds appropriate because of interference with the entryman's ability to comply with such requirement as a result of such major disaster.

MINIMUM STANDARDS FOR RESIDENTIAL STRUCTURE RESTORATION

SEC. 244. (a) No loan or grant made by any Federal agency, or by any relief organization operating under the supervision of the Director, for the repair, restoration, reconstruction, or replacement of any residential structure located in a major disaster area shall be made unless such structure will be repaired, restored, reconstructed, or replaced in accordance with such minimum standards of safety, decency, and sanitation as the Secretary of Housing and Urban Development may prescribe by regulation for such purpose, and in conformity with applicable building codes and specifications.

(b) In order to carry out the provisions of this section, the Secretary of Housing and Urban Development is authorized—

(1) to consult with such other officials in the Federal, State, and local governments as he deems necessary, in order that regulations prescribed under this section shall—

(A) carry out the purpose of this section; and

(B) have the necessary flexibility to be consistent with requirements of other building regulations, codes, and program requirements applicable; and

(2) to promulgate such regulations as may be necessary.

PART D—RESTORATION OF PUBLIC FACILITIES

FEDERAL FACILITIES

SEC. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 50 per centum of the net cost of restoring any such facility to its capacity prior to to such disaster and in conformity with applicable codes and specifications.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street road, or highway, and any other essential public facility.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 253. In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) section 306 of the Consolidated Farmers Home Administration Act.

RELOCATION ASSISTANCE

SEC. 254. Notwithstanding any other provision of law or regulation promulgated thereunder, no person otherwise eligible for relocation assistance payments authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a

major disaster as determined by the President.

TITLE III—MISCELLANEOUS

TECHNICAL AMENDMENTS

SEC. 301. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as determined by the President pursuant to the Disaster Assistance Act of 1970".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes (Public Law 875, Eighty-first Congress, approved September 30, 1950)" and inserting in lieu thereof "section 102(1) of the Diaster Assistance Act of 1970".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 1715l(f)) is amended by striking out of the last paragraph "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241–1(a)(1)(A)), is amended by striking out "pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "pursuant to section 102(1) of the Disaster Assistance Act of 1970".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(h) Section 165(h)(2) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)(2)) is amended to read as follows:

"(2) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Assistance Act of 1970,".

(i) Section 5064(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5064(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681), is amended by striking out of the last sentence "section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a)" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(l) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to the Act of September 30, 1950 (64 Stat. 1109), or any provision of such Act, such reference shall be deemed to be a reference to the Disaster Assistance Act of 1970 or to the appropriate provision of the Disaster Assistance Act of 1970 unless no such provision is included therein.

REPEAL OF EXISTING LAW

SEC. 302. The following Acts are hereby repealed:

(1) the Act of September 30, 1950 (64 Stat. 1109);

(2) the Disaster Relief Act of 1966, except section 7 (80 Stat. 1316); and

(3) the Disaster Relief Act of 1969 (83 Stat. 125).

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. Except as provided otherwise in this Act, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 304. This Act shall take effect immediately upon its enactment, except that sections 226(c), 237, 241, 252(a), and 254 shall take effect as of August 1, 1969.

Mr. STEVENS. Mr. President, I send to the desk an amendment and ask that it be stated—I will call it up later.

The assistant legislative clerk read as follows: On page 79, following line 2, insert the following new subsection:

(c) In the case of any loan made under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)) as a result of the Good Friday earthquake, which occurred on March 27, 1964, the Small Business Administration shall, at the borrower's option, on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so canceled shall not exceed $1,800.

Mr. STEVENS. Mr. President, I will call this amendment up at a later time.

The PRESIDING OFFICER. The amendment is withdrawn temporarily.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana will state it.

Mr. BAYH. Is S. 3619 now the pending order of business before the Senate?

The PRESIDING OFFICER. That is correct. That is the pending business.

Mr. BAYH. I thank the Presiding Officer.

Mr. President, the hour is late and the Senator from Indiana does not want to spend a great deal of the time of my colleagues. Suffice it to say that this bill is a product of some 3 or 4 years' effort.

The Senator from Alabama (Mr. SPARKMAN) is now in the Chamber. I should like to say that we are deeply indebted to him for the efforts his committee, the Banking and Currency Committee, expended in helping with this bill.

It is only fair to say, and perhaps the Senator from Kansas (Mr. DOLE) will want to verify this, that the administration has been very helpful.

Mr. President, the Committee on Public Works has unanimously approved S. 3619, a bill to revise and expand Federal programs for relief from the effects of major disasters.

As chairman of the Special Subcommittee on Disaster Relief, I wish to express my deep appreciation to the chairman of the full committee, Senator JENNINGS RANDOLPH, for his wise decision to establish the special subcommittee last year, for his assistance in arranging for hearings in the field and in Washington, and for his many courtesies and kindnesses with respect to consideration of this important bill in committee.

The ranking minority member of the committee, Senator JOHN SHERMAN COOPER, who sponsored the administration's disaster assistance bill, S. 3745, was, as always, most helpful and cooperative. I am also grateful for the generous cooperation given me by the members of the subcommittee on both sides of the aisle: Senators SPONG, EAGLETON, and GRAVEL, and Senators DOLE, GURNEY, and PACKWOOD. They have made valuable contributions to the final version of the proposal.

Likewise, I wish to thank the members of the Senate Banking and Currency Committee, who reviewed the bill before it was reported to the Senate and who proposed amendments affecting matters under their jurisdiction, for contributing their expertise and their valuable suggestions, all of which are contained in the bill as reported.

As a result, Mr. President, of the collaboration of all the Members I have mentioned, the committee has brought to the Senate a bill containing not only the best features of S. 3619, which I introduced with the cosponsorship of 30 other Senators and of S. 3745, the administration bill, but also a number of valuable amendments proposed in executive session by members of the Public Works Committee and the best thinking of the Senate Banking Committee. In addition, the committee accommodated Senators YARBOROUGH and TOWER of Texas, who had special concerns arising from recent disasters in their State.

This is a good bill, a strong bill, a far-reaching bill, and, at the same time, a completely nonpartisan bill.

The purpose of S. 3619, is to provide a permanent, comprehensive program for Federal disaster assistance and to strengthen the organization and administrative machinery needed to implement the program in an orderly and effective manner. It will enable the Federal Government, without further specific congressional action, to extend needed emergency relief and recovery assistance to individuals, organizations, businesses, and States and local communities suffering from a major disaster.

The bill consolidates into one act and repeals the three major existing Federal disaster assistance laws: The basic 1950 act, Public Law 875, 81st Congress; the 1966 Disaster Relief Act, Public Law 89–769; and the Disaster Relief Act of 1969, Public Law 91–79. This consolidation and the proposed broadening and enlargement of existing statutory provisions are designed to take into account the experience gained by the Congress and the Federal and State Governments from the devastating catastrophe caused in August 1969 by Hurricane Camille, the largest known destructive force of wind and

water ever to strike the United States, as well as the lessons learned from the tornado which struck Lubbock, Tex., in May this year.

The bill seeks to coordinate disaster relief and recovery efforts of all appropriate Federal, State, and local authorities, and relief and disaster assistance organizations under a single, permanent law, so that when disaster strikes anywhere in the country—as inevitably it will—the full resources of both public and private sectors may be brought to bear to meet the immediate challenge and to undertake the long, difficult and costly task of repair, rehabilitation, reconstruction, and replacement.

There are three principal reasons for enactment of this legislation: First, a number of the main provisions of the 1969 act—Public Law 91–79—will expire on December 31, 1970. These include sections dealing with repair and reconstruction of non-Federal aid roads and highways; the foregiveness feature of SBA, Farmers Home and VA loans; expanded temporary housing assistance; food stamp allotments; and unemployment assistance. These must all be extended beyond the end of this year.

Second, the time has come to codify the many diverse disaster assistance statutes into a single law. As President Nixon observed in his special message on April 22, 1970, the present program has "grown in a peacemeal and often haphazard manner, involving over 50 separate congressional enactments and Executive actions. This slow development process has created a complex program, one which has a number of gaps and overlaps and need increased coordination."

Third, the committee's hearings following the Camille disaster on the gulf coast and in Virginia and West Virginia clearly demonstrated the need for a number of new programs and directives in order to establish by law the fullest possible authority for the President and agencies of the Federal Government to respond to a major disaster quickly, efficiently, and without unnecessary restrictions.

Among the new proposals in this bill several are of outstanding importance: First, a program of aid to major sources of employment, to provide jobs for people thrown out of work by a disaster; second, a community disaster loan fund to make loans to local communities which have lost a substantial part of their tax base, so that they can pay interest and principal on outstanding bonded indebtedness, provide their share of matching funds for Federal grants necessary for restoration of the area, and provide or maintain essential public services; and third, 50–50 matching grants to restore damaged or destroyed State or local public facilities. These three programs are made retroactive to August 1, 1969, in order to make them available to the people and communities that were victims of Hurricane Camille.

In line with the administration's proposals, the amount of forgiveness on disaster loans under SBA and HUD programs has been increased from $1,800 to $2,500 on any loan of more than $500.

Also, the bill incorporates the interest rate recommended by the administration, as amended by the Banking Committee. The new rate on all disaster loans would be determined by the Secretary of the Treasury taking into account the current market yield on 10–12 year U.S. obligations less not to exceed 2 percent. The Treasury reports that the current rate is 7⅜ percent so the rate for disaster loans would be 5⅜ percent.

There are many other significant proposals contained in the bill and described in the report which I will not take time to enumerate.

All in all, Mr. President, this is as complete a program for meeting the impact of hurricanes, tornadoes, tidal waves, earthquakes, and other disasters as your committee, with all the information, advice and counsel it could obtain, has been able to devise. I urge the Senate to give S. 3619 its early approval.

Mr. MILLER. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. MILLER. I want to commend the Senator from Indiana for his work on this bill. I note that there are some familiar provisions in the bill which take me back to over 3 years ago when the Senator from Indiana and I collaborated on an extensive revision of the disaster relief laws, modeled somewhat after the Alaskan disaster relief legislation which was calculated to provide relief particularly to those who met great hardship as a result of tornadoes, floods, hurricanes, and the like.

I note particularly that the bill covers community disaster relief and temporary housing assistance. These are the two areas of greatest need which have not been covered heretofore by Federal legislation. I think that this legislation will be of great help. My only regret is that we could not make it retroactive to take care of those people who were so severely affected 2, 3, and 4 years ago; but we are making a great start here in the right direction and I am most happy to see this legislation come before the Senate.

Mr. BAYH. I appreciate the fact that the Senator from Iowa has called attention in the RECORD to some of the efforts that have been made in preparing the bill which is now before the Senate.

Ohio, Indiana, Illinois, Michigan, and other States in 1965 were hit by a series of tornados. Colorado in particular was stricken by a very serious flood. As a result, 16 Senators joined together shortly after Indiana was hit by the Palm Sunday 1965 tornado which killed 195 people, in an effort to secure a program establishing a meaningful disaster program. It was passed by the Senate but languished in the House until 1966, when part of the bill was enacted.

Last year, the Senator from Iowa will recall, the Senate adopted a very good disaster bill. The House was reluctant. During the August recess, as the Senator from Mississippi will recall, the gulf coast was hit by Hurricane Camille. Unfortunately, it took the impetus of Camille to get House, Senate, and the administration to get behind this type of program and secure its final enactment. However, several important provisions of that 1969 act will expire at the end of this year and must be extended.

In my opinion, this basic legislation should have been on the books 10 years ago.

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

Mr. BAYH. I yield.

Mr. STENNIS. Mr. President, I thank the chairman of the subcommittee and all of its members, including the chairman of the full committee, the Senator from West Virginia (Mr. RANDOLPH), for the very fine work they did here on an emergency basis to start with and for following through with reference to Camille. But more than that, I have followed this matter. I think they have done an extraordinary job not only in taking care of some immediate emergency matter, but they have also evolved a national law that will be a tremendous asset to the country. It will give assurance with reference to financial investments and bonds and the insurance problems and a great many other matters. When we talk about destroying the tax base of any county or city, we have destroyed all of it.

The committee has worked out a remarkable remedy. I commend the Senator.

Mr. BAYH. Mr. President, I appreciate the remarks of the Senator from Mississippi. We are all indebted to him, to Senator EASTLAND, and to the chairman of the Public Works Committee, the distinguished Senator from West Virginia (Mr. RANDOLPH).

As the Senator from Mississippi knows well, a special subcommittee was appointed in the wake of Camille to which I was appointed chairman. We held extensive hearings in Mississippi in Biloxi and toured that area. Virginia was also our host, where the subcommittee studied the upper effects of Camille.

I believe that the product of this subcommittee is long overdue. I hope that the Senate will support it. If the United States can rush to Iran and Chile and to other places around the world with the beneficence of our tax dollars, I think that the time has come when we should treat the citizens of this country more compassionately when they are hit by a disaster. That is what this bill proposes to do.

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

Mr. BAYH. I yield.

Mr. RANDOLPH. Mr. President, I am gratified to join in support to the Disaster Assistance Act of 1970, S. 3619, which was unanimously reported by the Committee on Public Works. This is vital legislation on which we have worked for an extended period of time.

The chairman of our Special Subcommittee on Disaster Relief, Senator BAYH, deserves high praise for his imagination and intelligence in conceiving this legislation. He has had diligence and perseverance over many years in pressing for adoption of the comprehensive nationwide and permanent program for disaster assistance embraced by this bill. He has been ably assisted by the other members of the subcommittee and the full committee.

I am sure that my distinguished friend from Kentucky, JOHN SHERMAN COOPER, is pleased to see much of his disaster relief bill, S. 3745, incorporated in the bill as reported. The ranking minority member of the subcommittee, Senator DOLE, has my commendation for his success in improving the bill with amendments urged by the administration.

This landmark legislation will be of benefit to the citizens of any State and locality in the United States that is so unfortunate as to be struck by a major disaster. It deserves, in my opinion, the affirmative vote of every Member of this body.

Mr. BAYH. Mr. President, I appreciate the kind remarks of the Senator from West Virginia. His assistance has been indispensable. I think that it is most appropriate that we also recognize the excellent efforts of the Senator from Kansas (Mr. DOLE). I earlier made reference to the contributions of the Senator from Kansas who was with us in Mississippi and Kansas and sat through the hearings.

I do not know of another example when we have had the joint efforts of Republicans and Democrats which would better meet the basic needs of the people of this country.

It seems to me unconscionable that we have gone so long without being prepared in advance. We do not know when we will have another disaster. However, history has proven to us that we will have more disasters.

This bill will provide one general act which will apply to any disaster. It should not be necessary to rush to Congress to seek special, piecemeal legislation after every disaster.

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

Mr. BAYH. Mr. President, I yield to my friend, the distinguished Senator from Virginia, who was our host in Virginia and who helped immeasurably on the bill. Part of the bill shows his footprints.

Mr. SPONG. Mr. President, the Disaster Assistance Act of 1970 will establish permanent machinery to respond quickly to the needs of individuals, businesses, and communities which may be struck by natural disasters.

The bill represents a constructive response to testimony received at hearings before the Special Public Works Subcommittee on Disaster Relief, a unit created to examine the effectiveness of the Federal response to Hurricane Camille last year, and to determine the need for additional legislation.

Heretofore, disaster relief measures have been enacted after disasters have occurred. Consequently, the assistance necessary to restore disaster-stricken areas often has lagged behind the need.

In addition, disaster victims and local government officials have had to examine several different laws for relief programs. The measure developed by the special subcommittee would codify these programs into a single statute, thereby simplifying existing procedures.

The pending bill would establish on a permanent basis the major provisions of the Disaster Relief Act of 1969, which expires this year. For example, the measure would authorize Federal grants for the removal of debris from private property, assistance for the repair and reconstruction on non-Federal-aid highways, and forgiveness of a portion of disaster loans made by the Small Business Administration and the Farmers Home Administration. It also includes provision for temporary housing, food stamps, legal services, and unemployment assistance.

Several sections of the bill would be retroactive to Hurricane Camille, and accordingly may provide additional assistance to individuals, businesses, and communities affected by the disaster along the gulf coast, and in the James River Basin of Virginia.

The retroactive provisions of the bill are as follows:

First. The Small Business Administration and Farmers Home Administration would be authorized to make loans to major sources of employment in a disaster-stricken area without regard to the $500,000 ceiling imposed administratively by SBA and FHA. In order to be eligible, an enterprise must have been damaged to the extent that it is no longer in substantial operation as a result of a disaster.

Second. The Director of the Office of Emergency Preparedness would be authorized to assume temporarily the mortgage or rental payments of victims who, because of financial hardship caused by a disaster, have received notice of eviction or foreclosure.

Third. A community disaster loan fund would be established to assist localities in meeting bond payments, providing the local share of Federal grant-in-aid programs, or for maintaining essential public services. Loans could be made in cases where the local government has suffered a loss of more than 25 percent of its tax base, or in cases where such a substantial amount of the tax base has been lost that the locality is unable to meet its obligations.

Fourth. Grants would be authorized for the repair or reconstruction of public facilites owned by States or localities. Eligibility would be extended to sewage treatment and collection, water supply and distribution, airport, flood control, irrigation, and other facilities. Grants would be limited to 50 percent of costs.

The bill also includes provision for purchasing as well as leasing of mobile homes. There would be no charge for rentals during the first 90 days of occupancy. Thereafter, the financial ability of the occupant would be considered in fixing rent.

Under present law, for disaster loans in excess of $500, a maximum of $1,800 can be canceled. Under a new formula developed by the subcommittee, the forgiveness level would be increased to $2,500.

Mr. President, having seen the devastation caused by Hurricane Camille in Virginia, and heard the accounts of the resulting hardships suffered by many individuals, I am convinced of the need for this legislation. It has been a privilege to serve with the able chairman of the subcommittee, the distinguished Senator from Indiana (Mr. BAYH), during the development of the bill.

Mr. President, I join in the commendations of the efforts of the Senator from Indiana and others. It was fortuitous for the people of Virginia and Mississippi and the other areas affected that legislation sponsored by the Senator from Indiana was pending at the time this disaster struck and that we were able to use the bill upon an emergency basis and perfect it in the form of the legislation we are considering here this evening.

On behalf of the people of Virginia, I thank all Senators who have made contributions to the pending legislation.

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

Mr. BAYH. I yield.

Mr. SPARKMAN. Mr. President, I join with the other Senators in expressing my commendation and appreciation to the chairman of the subcommittee, the Senator from Indiana (Mr. BAYH), and to the chairman of the full committee, the distinguished Senator from West Virginia (Mr. RANDOLPH), both of whom have taken a great interest in this matter as have the other Senators who worked on it.

The Senator made reference a few minutes ago to the adoption of a suggestion our committee made. After the Public Works Committee finished its deliberations on the bill, in accordance with an understanding we had on the floor of the Senate when the bill was originally introduced, the bill was referred to the Banking and Currency Committee for such recommendations as it might want to make in those areas coming within the jurisdiction of the committee.

We did suggest a couple of amendments.

The Senator from Indiana referred to the one that relates to the interest rate. We tried to work that out to make it consisent with other similar programs.

Mr. BAYH. Mr. President, if the Senator will yield at that point, I ask unanimous consent to have printed at this point in the RECORD a letter contained in the report. The letter is from the distinguished chairman of the Committee on Banking and Currency to the chairman of the Public Works Committee. It incorporates the four suggestions made by the distinguished chairman and the members of the committee. It has been very helpful.

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

U.S. SENATE,
COMMITTEE ON BANKING
AND CURRENCY,
Washington, D.C.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Public Works,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: On August 25, 1970, the Senate Banking and Currency Committee considered the housing and small business aspects of your committee's bill, the Disaster Assistance Act of 1970.

After reviewing these provisions, we recommend the following changes be made in the bill prior to its being reported to the Senate:

1. On page 17, section 231(a), after the words "major disaster" insert the words "as determined by the President or a disaster as determined by the Administrator." This will

make the provisions of section 231 of your bill apply to those disasters declared by the Administrator of the Small Business Administration as well as those major disasters declared by the President.

2. On page 21, section 234: (1) after the word "Act" insert ", or under the authority of section 7(b) of the Small Business Act." This provision would make the interest rate which the Small Business Administration charges on its economic disaster loans the same as those it charges under this bill on physical disasters;

(2) Insert "236(b)". This will make the provision of section 236(b) carry the interest rate formula contained in this section;

(3) Also increase the 1 percent figure in the interest rate formula to 2 percent thereby giving the disaster victims a greater break in their interest rate to be charged under this bill.

3. On page 20, delete section 233 and insert language which would treat veterans with direct VA loans who had property destroyed or damaged which secured these loans in the same manner as other victims of disaster. This new language would also give the Administrator of Veterans Affairs the right to forbear payments on the veterans loans at his discretion.

4. On page 22, section 236(b), delete the reference to interest rate. The interest rate under this section would be fixed at the formula set out in section 234 of the bill. This is recommended in order to make all the disaster provisions under this bill affecting HUD and SBA carry the same interest rate.

I am attaching copies of these amendments.

* * * * *

With best wishes, I am
Sincerely,
JOHN SPARKMAN, *Chairman.*

Mr. SPARKMAN. Mr. President, are those amendments incorporated in the final form of the bill as our committee recommended them?

Mr. BAYH. The Senator is correct. They are.

Mr. SPARKMAN. I simply wanted the record to show that.

Several Senators addressed the Chair.

Mr. BAYH. Mr. President, I yield to the Senator from Kentucky.

Mr. COOPER. Mr. President, I wish to join my colleagues on the Committee on Public Works and other Members of the Senate in commending the Senator from Indiana for his work in connection with this bill. In 1967 and 1968 he introduced a disaster relief bill as he had earlier in 1965 which resulted in the act of 1966. There was considerable discussion of that bill, different viewpoints, and thorough consideration which I believe was helpful in the development of the 1969 act and also of the bill which is now before us. Last year we had the California floods and the awful disaster of Hurricane Camille affecting especially Mississippi and Virginia. We were helped very much in the committee discussions on the 1969 act and on this bill by the distinguished Senators from Mississippi (Mr. STENNIS and Mr. EASTLAND), by the earnest and perceptive work of the Senator from Virginia who is a member of the committee (Mr. SPONG) and his colleague (Mr. BYRD). The Committee on Public Works established a Special Subcommittee on Disaster Relief, which held extensive hearings in the field and in Washington.

The President then sent to the Congress early this year a special disaster assistance message, containing the legislative recommendations of the administration, the most comprehensive disaster relief proposals made by any administration. I introduced the administration bill, S. 3745, on April 23, 1970, which was cosponsored also by Senator DOLE and Senators RANDOLPH and BAYH, chairmen of the full committee and the subcommittee. Most of those recommendations have been included in S. 3619.

I want to pay special tribute to the Senator from Kansas (Mr. DOLE) who is the ranking minority member of the subcommittee, and a new Member of the Senate. He entered into this work with all of his energy. He went to Mississippi, and he went to Virginia, when others found the trip too difficult or the weather too bad to go. He worked closely with the administration and diligently within our committee. I think the bill which is the result of these combined efforts is the most comprehensive of its kind ever to come before Congress.

The Disaster Assistance Act of 1970, S. 3619, represents efforts of the Subcommittee on Disaster Relief of the full Public Works Committee to bring orderly assistance to the chaos and suffering wrought by natural disasters. The committee's work on this legislation began on the gulf coast following Hurricane Camille, when hearings were held in Biloxi in January. Further field hearings were held in Roanoke, as well as several days of hearings here in Washington.

The committee's deliberations have focused on legislative proposals S. 3619 and S. 3745. The latter was an administration proposal which came to Congress with a Presidential message on disaster assistance. The committee, its staff, and officials of the administering agencies of the executive branch have worked together closely throughout the development of this legislation and I believe that the strong legislation before the Senate this evening reflects that careful and thorough deliberative process.

The bill recodifies much of existing law in the disaster assistance field and in doing so should greatly aid the task of State and local officials in determining what kinds of assistance are available to them in rebuilding their shattered communities. The confusion which has existed up to now, due to the different laws dealing with disaster relief, was repeatedly mentioned throughout the hearings.

On April 22, 1970, President Nixon sent a message to the Congress asking for the most comprehensive disaster relief in history. The administration can be proud of the provisions of S 3475, its bill which I introduced on April 23. They were good provisions and all but two of the major sections were included in the reported version of S. 3619 in whole or in some modified version.

I think the administration is to be further commended for the actions it has taken since Hurricane Camille to streamline and improve administering to people's needs in the period following a major disaster.

It is important, it seems to me, to note that throughout the committee's work on this legislation two threads of thought were constantly apparent. We wanted to design legislation to care for people. And secondly, we wanted to assure that the negative realities of destruction be turned, so far as possible, to constructive and productive rebuilding. S. 3619 seeks to fulfill those aims and its passage and enactment into law will do much to assure that we "build back better" what is destroyed by future natural disasters in the future.

Again, I commend the Senator from Indiana, Senator BAYH, our committee chairman, the junior Senator from Kansas, Senator DOLE, who worked hard in the hearings, in the field and on the development of the bill, Senator SPONG of Virginia, and all the members of our Public Works Committee and the staff.

Mr. President, I ask unanimous consent the message from the President to the Congress on April 22, 1970—the most comprehensive proposals on disaster assistance by any President, and which contributed so much to the development of this bill—be included in the RECORD following my remarks.

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

MESSAGE FROM THE PRESIDENT

To the Congress of the United States:

The spirit of neighborliness, the readiness to extend a helping hand in time of trouble, is one of the great traditions of this country. In the early years of our history, good neighbors were essential in coping with the hardships of pioneer life. They are equally essential in meeting the challenges of life today.

The spirit of the good neighbor was particularly evident in 1969 when natural disasters struck this country in unprecedented numbers and with unprecedented force. Twenty-nine major disasters and an untold number of smaller disasters were responsible for over 300 deaths and an estimated $2 billion in property damage in the last calendar year. Events such as the California floods and Hurricane Camille with the Virginia floods were exceptionally destructive.

Private voluntary agencies have traditionally played a crucial role during times of disaster. State and local governments are key factors in any successful disaster relief effort. Thus the Federal role is only one part of the overall response of the nation. But it is a very important part of that response. Under the Federal Disaster Acts of 1950, 1966, and 1969 and their amendments and under provisions in many other statutes, the Federal government works to help individuals through relief and rehabilitation efforts and to assist State and local governments by restoring public facilities essential to community life. In 1969 the Federal government allocated $150 million for assistance from the President's Disaster Relief Fund—the largest sum for any one year in history. Significant additional funds were spent on disaster assistance under other Federal programs. A report on our 1969 experience is being provided to the Congress.

We are confident that the general framework of our present program provides an effective mechanism for channeling Federal disaster assistance to individuals and communities. Rather than depending on a specialized disaster assistance agency, the present system makes maximum use of existing agencies, centrally coordinated by the Office of Emergency Preparedness, to perform tasks in time of emergency which are similar to those which they perform in normal circumstances. Our present arrangements also encourage constructive and cooperative efforts among, individuals, local communities, the States and the Federal government.

At the same time, however, we have learned that a number of improvements are in order

within the existing framework. The last Presidential special message on the subject of disaster assistance was written 18 years ago. Since that time, this program has grown in a piecemeal and often haphazard manner, involving over 50 separate Congressional enactments and executive actions. This slow development process has created a complex program, one which has a number of gaps and overlaps and needs increased coordination. It is time for new legislation and executive action to make our Federal disaster assistance program more effective and efficient.

LEGISLATIVE PROPOSALS

To extend and to improve the assistance which the Federal Government can provide in time of major disasters, I am asking the Congress to enact the Disaster Assistance Act of 1970. This legislation contains a number of specific proposals, the most important of which are the following:

Revenue maintenance

When a community experiences a major disaster, the physical impact is obvious. What the television camera does not capture, however, is the loss of property tax revenue which occurs when a substantial portion of a community's property tax base is destroyed and its essential services are disrupted.

To ease this difficulty, *I recommend that the Congress enact a property tax revenue maintenance plan.* Under this plan, the Federal government would be authorized to lend money at favorable interest rates to local governments to make up their loss of property tax revenues following a major disaster.

Permanent repair

I am asking the Congress for expanded Federal authority to permanently repair or fully replace essential public facilities damaged by disasters. This authorization would provide a more effective and practical approach to the replacement of damaged public facilities which are vital to community life. This Administration would give preference to local employees and contractors in repair and rebuilding work.

Economic development assistance

I am also asking the Congress to amend the Public Works and Economic Development Act of 1965, so that the Economic Development Administration would provide staff support, technical advice and financial assistance to those communities affected by major disasters. Such assistance is vital in recovery efforts, particularly when the community is attempting to begin long-range rebuilding or redevelopment efforts.

Disaster loans

I am proposing legislation to improve the disaster loan programs of the Small Business Administration and of the Farmers Home Administration. These loans are among our principal sources of assistance to stricken individuals. The recommended changes would provide for improved refinancing, payment deferral, and forgiveness arrangements and would assure disaster loans to older citizens. My proposed amendment would allow the FHA and SBA to provide faster service and would therefore promote speedier recovery following disasters.

Unemployment compensation

I am also recommending that the Congress extend for two years the expanded unemployment compensation provisions of the Disaster Relief Act of 1969. These provisions make temporary income available as promptly as possible to help individuals who are unemployed as the result of a major disaster. Such assistance to individuals was a new feature in the 1969 Act. Before last year, only those unemployed persons who could qualify for compensation under the normal unemployment insurance programs could receive income protection following a disaster. The two-year extension which I recommend would provide time to fully evaluate the new provisions and to consider appropriate legislation.

Housing

Hurricane Camille provided the greatest test of the Federal government's ability to provide temporary housing to victims of a major disaster. We believe we met that test; at the direction of the Office of Emergency Preparedness, the Department of Housing and Urban Development was able to place more than 5,000 mobile homes in the disaster area. We also believe, however, that the language of the law which authorizes such activities is confusing.

Two separate provisions in two different laws are now directed to temporary emergency housing. In order to simplify the legislative provisions that apply to this problem, *I propose that the provisions for temporary housing in PL 81–875 be amended so that they incorporate many of the broad principles of PL 91–79, without sacrificing flexibility.* A clarified version of this law would allow the government to provide temporary housing or other emergency shelter—including leased mobile homes or other readily fabricated dwellings.

Debris removal

One of the serious problems encountered in Hurricane Camille related to the removal of debris from private property. Current legislation in this area is confusing and difficult to administer. *I am therefore proposing corrective legislation that would simplify and speed debris removal from private property when it is in the public interest.* Again, preference would be given to local employees and contractors.

Disaster prevention

In March and April 1969 this Administration conducted a massive flood prevention program in the upper Midwest and New England. This program—Operation Foresight—was immensely successful; it prevented widespread human suffering and an estimated $200 million in damages, at a cost of $20 million. The success of this disaster prevention effort suggests that we can do a great deal to avoid or limit the effects of expected disasters. *Accordingly, I am proposing legislation which would extend the Federal government's authority to assist State and local governments in disaster prevention and damage reduction activities.*

Planning assistance

The Disaster Relief Act of 1969 authorized one-time matching grants to help States formulate better plans for coping with disasters. Almost half of the States have already indicated that they will join us in this effort and we expect that others will soon follow their lead. *I now recommend that the Congress expand this provision of the 1969 law in order to help States review and update these plans on a continuing basis.*

In addition to the major initiatives outlined above, the legislation prepared by the Administration includes a number of other changes designed to extend the scope and improve the effectiveness of Federal assistance.

Administrative actions

Legislative changes are not the only improvements which are presently required. Our experience indicates that changes in administrative procedures can be equally important in providing a more effective assistance program.

Coordination

To improve coordination of Federal Disaster Assistance efforts, both among Federal agencies and among Federal, State, and local officials, I am establishing a National Council on Federal Disaster Assistance. The Council will be composed of senior officials from Federal agencies concerned with disaster assistance and will be chaired by the Director of the Office of Emergency Preparedness.

To further improve coordination of disaster assistance activities in the field, I have also directed that the Regional Directors of the Office of Emergency Preparedness be included as ad hoc members of the newly formed Federal Regional Councils. This improvement will be supplemented by other actions to improve coordination among all levels of government, including the Office of Emergency Preparedness regional planning conferences with State officials with the first such conference this month on the West Coast.

In addition to improving coordination and developing more comprehensive plans, we need better procedures for continuous communication with State and local governments on such matters as disaster legislation. The Council of State Governments and such organizations as the International City Management Association, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors are assisting us in this effort.

Improvements in disaster assistance also require an improved program of research and evaluation, the results of which are readily available to all who can benefit from them. I have therefore directed the Office of Emergency Preparedness to act as a central clearing house for all Federal research which is related to disasters.

Assistance to individuals

An important objective, particularly in large-scale disasters, is that of informing individuals of the assistance which is available and of the places where it can be obtained. To meet this problem, we are expanding our information efforts and keying those efforts to the needs of the individual citizens of the community, particularly those who are poor.

Whenever a disaster occurs, those who live in the area desperately want to be in touch with their friends and relatives who live elsewhere. Rescue workers also need better communication facilities within such areas. I have therefore asked the Office of Emergency Preparedness to provide better emergency communication services to stricken regions during times of disaster.

Just as we make it easier for individuals to get information, so we should make it easier for them to get assistance. It should not be necessary for individuals to travel from one place to another and then to still another location in order to obtain the help which various agencies of the Federal government are providing. *Accordingly, we are developing plans to provide "one-stop" service to individuals in disaster areas.* Representatives of the principal Federal agencies and of the Red Cross, as well as caseworkers and legal advisors, will all be available at a single assistance center.

Disaster assistance teams

Disaster stricken communities frequently lack trained personnel who can help them make the best possible use of the assistance which is available to them from many sources. To meet this need, I have directed the Office of Emergency Preparedness to form *Federal disaster assistance teams to help local communities coordinate the overall assistance effort.* These teams will be supervised by a Federal Disaster Assistance Coordinator who will act as an on-the-spot representative of the President in any particular disaster area.

Disaster Insurance

Our experience with disasters in 1969 clearly demonstrated the need for expanded insurance coverage for property owners. The national flood insurance sections of the Housing and Urban Development Act of 1968 presently permit Federal insurance assistance in flood-prone areas and we are now implementing that program on an accelerated

basis. *I am also directing that a comprehensive study of property insurance coverage for disaster situations be undertaken and that specific recommendations be provided me by the end of this year.* This study should take into account the views of the State insurance authorities, the insurance industry, lending institutions, and the general public.

Civil Defense

The disaster assistance activities of State and local governments often are closely related to their civil defense responsibilities. The relationship between the Federal government's disaster assistance and civil defense activities should now be carefully reviewed. Accordingly, I have asked that such a study be carried out and that its recommendations be given to me by December 31, 1970. It is important that any changes in this sensitive area be made only after a careful review, one which gives special attention to the impact of any suggested change upon national security.

* * * * *

As we move into a new decade, one of the nation's major goals is to restore a ravaged environment. But we must also be ready to respond effectively when nature gets out of control and victimizes our citizens.

With the improvements I have recommended to the Congress and those which I am instituting by Executive action, the disaster assistance program of the Federal government will continue to provide outstanding public service in times of crisis. This program manifests the extraordinary humanitarian spirit of our nation. The changes I have proposed would enable it to reflect that spirit even more effectively.

RICHARD NIXON.

THE WHITE HOUSE, *April 22, 1970.*

Mr. BAYH. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I concur with the statements made earlier by the Senator from Indiana, the Senator from West Virginia, and the Senator from Kentucky, the Senator from Virginia, and, of course, the Senator from Mississippi.

It was an eye-opening experience for me and every member of our subcommittee to visit the Biloxi area. We visited Pass Christian and found an entire community leveled, the tax base destroyed, and no apparent means of reviving that community.

This field investigation and the hearings that ensued are responsible for some of the improvements proposed in this legislation.

I share the views of the Senator from Indiana who has been the leader in proposing disaster legislation. I had misgivings in the beginning about some provisions, but after witnessing the hardships and tragedies that result from disasters I am convinced the subcommittee has done an excellent job.

The bill represents the efforts of the subcommittee, the efforts of the administration, and the efforts of the minority and majority staff of the subcommittee and full committee who worked tirelessly with staff members of OEP to write a bill that is responsive to the needs of the people in time of disaster.

It is my opinion that we have passed and approved in the subcommittee and the full committee, with the approval of the Committee on Banking and Currency, landmark legislation. There are significant efforts to improve and update our disaster assistance programs.

Mr. President, on April 22, 1970, President Nixon, in the first special message to Congress on the subject of disaster assistance in 18 years, pointed out:

The spirit of neighborliness, the readiness to extend a helping hand in time of trouble, is one of the great traditions of this country. In the early years of our history, good neighbors were essential in coping with the hardships of pioneer life. They are equally essential in meeting the challenges of life today.

In 1969, the challenges posed by natural disasters surpassed those of any single year since the first comprehensive Federal Disaster Act was passed in 1950. There were 29 major disasters, which included the California floods and Hurricane Camille, described by the U.S. Geological Survey as "the most intensive hurricane on record to enter the U.S. mainland." As a result, the Federal Government allocated a total of $148,970,000 from the President's disaster fund, the largest sum for any year in history. In addition, the disaster loan programs of the Small Business Administration and the Farmers Home Administration were of major assistance during 1969 to homeowners, businessmen, and farmers. Food supplies from the Department of Agriculture, community relations services from the Department of Justice, and legal assistance grants from OEO also helped many disaster victims.

Despite the tremendous response of the Federal agencies to the major disasters of 1969, President Nixon recognized the need to improve our performance. In his special message to the Congress, he proposed far-reaching legislative and administrative changes. The President found that our disaster assistance program has "grown in a piecemeal and often haphazard manner, involving over 50 separate congressional enactments and Executive actions." He noted that—

This slow development process has created a complex program, one which has a number of gaps and overlaps and needs increased coordination.

The bill we are considering today includes the best concepts and proposals of S. 3619 introduced by Senator BAYH, chairman of the Subcommittee on Disaster Relief, and S. 3745, introduced by Senator COOPER, ranking minority member of the full Committee on Public Works, on behalf of the administration. Specifically, the following provisions from S. 3745 are included in this bill:

First. Provision for removal of the "emergency repair of temporary replacement" criteria of work on essential public facilities, with the proviso that the Federal cost of permanent repair or replacement not exceed the net worth of the facility to its predisaster capacity.

Second. Provisions to allow the President to contract or make agreements with private relief organizations in order that the activities of these organizations can be coordinated by appropriate officials and conditioning of such agreements on compliance with title VI of the Civil Rights Act of 1964.

Third. Provisions to provide for forgiveness of up to $2,500 on losses or damage in excess of $500 on the principle of an SBA or FHA disaster loan.

Fourth. Provision that the State planning program would be an ongoing activity rather than expire on December 31, 1970. Additionally, provisions to limit the amount of assistance available to any one State to $25,000 per annum and in amounts which shall comprise more than 50 percent of the total cost of such planning.

Fifth. Provision that debris-clearance assistance to the States and local governments not be made unless the State or local jurisdiction agrees to unconditionally indemnify the Federal Government from any claims arising as a consequence of the debris removal.

Sixth. Provision to establish a community disaster loan fund in the Treasury for assistance to local communities suffering substantial loss because of a major disaster.

Seventh. Provision to authorize assistance in advance of an imminent disaster.

Eighth. Provisions dealing with antidiscrimination in the administration of assistance; with the establishment of advisory groups on disaster relief, and on the assignment of advisory personnel, to local communities.

In addition, the President's program improvements to be achieved administratively have been accomplished or are well underway:

A National Council on Federal Disaster Assistance has been established. The Council brings together senior level officials of Federal agencies to improve coordination of Federal assistance efforts.

One-stop centers: The concept has been tried and proven in the recent Lubbock and Corpus Christi, Tex., disasters, making it easier for disaster victims to get information and assistance.

Disaster assistance teams: Teams of knowledgeable Federal officials, supervised by OEP disaster assistance coordinators, are helping communities and individuals in disaster relief and recovery efforts.

Disaster research: Within OEP, a research effort is being initiated, wherein the agency serves as the clearinghouse on all disaster-related research.

During our hearings, both in the field and in Washington, we heard many complaints about insurance coverage for property owners. At that time, the National Flood Insurance Section of the Housing and Urban Development Act of 1969, permitting Federal insurance assistance in flood-prone areas, had not been fully implemented. That program has now been accelerated, and many more communities are participating. Hopefully, the frustrations arising out of the insurance practices of the past will cease to occur. Further, President Nixon has requested a comprehensive study of property insurance coverage for disaster and will be receiving specific recommendations before the end of the year.

The response of State and local governments to a major natural disaster is one of the most important aspects of effective disaster assistance. We found that there was a wide variance in the ability of the States and in turn the local governments to truly aid their citizens. Oftentimes, those who are designated for

such duties are disaster victims themselves. Where there has been an affirmative response, it is often related to the viability of the State and local civil defense units. The relationship between the Federal Government's disaster assistance and civil defense activities is under review by the President. I am hopeful he will forward recommended changes to the Congress shortly after the first of the year.

As the President said in his disaster message:

> The general framework of our present program provides an effective mechanism for channeling federal disaster assistance to individuals and communities.

But this legislation for the first time consolidates our major disaster assistance programs and provides additional assistance in areas in which we have been deficient in the past. It is the result of bipartisan efforts of members of the committee and the responsible officials in the executive branch. As ranking minority members of the Subcommittee on Disaster Relief, I join my colleagues in supporting the Disaster Assistance Act of 1970. It will allow us, in the President's words, "to respond effectively when nature gets out of control and victimizes our citizens."

Mr. BAYH. Mr. President, I yield to the Senator from Texas. I understand he has an amendment.

Mr. YARBOROUGH. Mr. President, I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows: On page 98, line 10, before the period insert the following: "and sections 231, 232, and 233 shall take effect as of April 1, 1970."

Mr. YARBOROUGH. Mr. President, I thank the distinguished Senator from Indiana for yielding to me. I compliment the Senator for his great work in connection with the important bill.

Mr. President, the amendment I have sent to the desk would apply retroactively the loan cancellation provisions, sections 231, 232, and 233, of S. 3619, to all victims of disasters occurring after April 1, 1970.

Mr. President, we have before us one of the most important pieces of legislation that Congress will consider this session. S. 3619, will provide a permanent and comprehensive disaster relief program which will be of immeasurable benefit to countless Americans. No one in this body realizes more fully the urgent need for this legislation than I. Having observed the damage done to my State this spring and summer by tornadoes, floods, and hurricanes, and having worked with disaster relief agencies and the unfortunate victims of these natural disasters, I know from personal experience the weaknesses in the present law and need for the changes proposed in S. 3619. This is why I am proud to be a cosponsor of this bill. Its excellent features are so many that I shall not take the time of the Senate to speak on them at this time; however, I do wish to commend the distinguished Senator from Indiana (Mr. BAYH) and the members of his subcommittee for their fine work on this bill.

The purpose for my amendment is to make available to the thousands of victims of major disasters that have occurred since April 1, 1970, the increased loan cancellation features of S. 3619. Under the present law, Public Law 91–79, which was enacted in October of 1969 in the wake of Hurricane Camille which ravished the gulf coast, the Small Business Administration and the Farmers Home Administration are authorized to cancel at the borrower's request up to $1,800 of any disaster loan in excess of $500. In other words, if a disaster victim obtained a $2,300 loan from the Small Business Administration to repair or restore his farm house or replace his livestock, he would be obligated to pay the first $500 but the balance would be canceled. When Public Law 91–79 was enacted in October of 1969, its provisions and benefits, including the loan cancellation feature, were made to apply retroactively to all major disasters that occurred after June 30, 1967. By making Public Law 91–79 retroactive to that date, the victims of Hurricane Beulah, which struck the gulf coast in September of 1967, were allowed to benefit by the law. My amendment does nothing more than was done when Public Law 91–79 was enacted.

The committee in reporting S. 3619 recognized that the cost of construction work has skyrocketed in the last year; therefore, the committee wisely increased the amount of a disaster loan that the Small Business Administration and Farmers Home Administration can cancel from $1,800 to $2,500. This increase of $700 may seem small and insignificant to those people of wealth; however, to the Mexican American and black citizens of Lubbock and Corpus Christi, to small businessmen and fishermen of the gulf coast, and to the farmers of Plainview, this amount could provide the means and assistance to stay in their communities and rebuild their homes, farms, and businesses rather than being forced to seek a new start in another area. This is why it is only fair and just that we make the increased benefits of S. 3619 available to as many disaster victims as possible.

In my State, there have been four major disasters since April of this year. The first of these disasters was the tornado that struck Plainview, Tex., and cut a 175-mile path of death and destruction in a 10-county area. Second, was the tornado that struck Lubbock, Tex., on May 11, affecting 2,500 square blocks of that prosperous city. Third, on May 15 of this year a flood devastated San Marcos, Tex. Last, but far from least, Hurricane Celia struck Corpus Christi, Tex., and many other towns and cities in a 12-county area in Texas in August. The damage figures are still being completed on all of these disasters; but from what information that is available, it is clear that the Lubbock tornado damaged or destroyed over 10,000 homes. The Plainview tornado caused over $10 million in property damage. The San Marcos flood caused over $2 million and Hurricane Celia has caused over $233 million in damages to real property and homes and automobiles alone as of this date.

In these areas in Texas, the Small Business Administration and the Farmers Home Administration have already made many disaster loans and there are still many loan applications to be acted on. In Lubbock, Tex., for example, the Small Business Administration has already made over $7 million in loans to homeowners and businessmen. Many more loan applications are still pending. In the counties affected by Hurricane Celia, the Small Business Administration has made 2,500 loans and the Farmers Home Administration has made 21 loans. Many more loan applications are pending for action by the Small Business Administration and Farmers Home Administration.

Under the present law, the Small Business Administration and Farmers Home Administration are authorized to defer the initial payments on these loans for a period of time in order to allow the borrower to get on his feet financially with his other creditors. For example, the initial payment on loans made by the Small Business Administration to a homeowner or business concern that cannot obtain funds from private sources may be deferred for a period of 5 months to 3 years, depending on the financial condition of the borrower. The Farmers Home Administration is authorized to allow the repayment of emergency loans for the purposes of replacing livestock and equipment for periods of up to 7 years and to allow loans for the purpose of repairing farm buildings and improvements to be repaid over periods of up to 20 years. Thus, in many situations, victims who have received disaster loans since April 1, 1970, have not even made the first payment on these loans and will not do so for some time. In many other cases, loan applications made by the victims of Hurricane Celia and the Lubbock tornado will not even be acted upon until after this legislation has passed. To people in these situations, it will appear that Congress has lost all interest in their problems if they are not offered the opportunity to take advantage of the cancellation provisions of S. 3619.

Mr. President, those who oppose my amendment usually offer two feeble reasons why it should not be passed.

First, it is argued that to make these provisions retroactive will impose great administrative difficulties for the Small Business Administration and Farmers Home Administration. When tested by experience, this argument will not stand up. As pointed out earlier, in many situations, the first payments have been deferred. In other situations the loan applications have not been acted upon. Thus, it would not seem to be an insurmountable task for these agencies to advise these borrowers of their rights under S. 3619 and offer them the opportunity to come under these provisions. It is true that it might cause these agencies some extra work and in some cases some inconvenience, however, when the public good is pitted against governmental inconvenience it is imperative that the public good prevails. The foundation of

government in a democracy is to be responsive to the needs of the people and to find ways of meeting these needs. When our Government stops acting in the best interest of the people and starts acting only for its own interest and convenience their own Government has failed in its basic function: to serve the people.

Second, it is argued that by applying this amendment retroactively, disaster victims will be hurt rather than helped because the interest rate will be increased from 3 to 5⅜ percent. This argument is also impersuasive because:

First, my amendment does not automatically increase the interest rate on any existing disaster loan. On the contrary, my amendment would offer disaster victims the choice of whether to retain their present loans at an interest rate of 3 percent with only $1,800 in cancellation authority or to take a new loan at 5⅜-percent interest with $2,500 in cancellation authority. Naturally, not all disaster victims will make the same choice; however, I do not believe that it would be too much of a burden on the agencies involved to make this choice available to these unfortunate people.

Second, in many cases, the benefits of the increased amount that can be canceled will far outweigh the effect that the interest rate might have. This is particularly true in the case of low-income people. For example, suppose a low-income family sustains $3,000 in damages to their home. Under the present law, this family would be entitled to have $1,800 of a $3,000 loan canceled, leaving them with the obligation of repaying $1,200 at 3-percent interest. If my amendment is enacted, this family would have the choice of receiving a loan under S. 3619 which would allow them to have $2,500 of this loan canceled, leaving them obligated to pay back $500 at 5⅜-percent interest. It seems obvious that a debt of $500 at 5⅜-percent interest is much easier for a low-income family to carry than a $1,200 debt at 3-percent interest. At the rate of 5⅜ percent the interest on $500 for 1 year is only $26.37. The interest on $1,200 at 3 percent for 1 year is $36. Therefore, it appears logical to me that low-income and middle-income people, when given the choice, would rather pay $526.87 than $1,236. The obvious benefits of the increased cancellation features of S. 3619 even with an increased interest rate, are pointed out by the committee on page 18 of the report on S. 3619 in which it is stated:

> Despite the higher interest rate which would be charged for disaster loans, substantial benefits will accrue under the new formula for many of those seeking assistance. A homeowner whose disaster loan exceeds $10,500 will be eligible for a forgiveness of the maximum amount, or $2500. His total encumbrance on $10,500 will be only $8000. A $6000 disaster loan will be credit with $2500, reducing the obligation to $3500. A borrower of $2000 will be entitled to a $1500 cancellation, leaving a balance of $500 to be repaid.

Mr. President, the amendment I have proposed is a fair and just measure. It is one that I am committed to because of what it means to the poor people who have suffered so much in these terrible disasters. I cannot turn my back on these people in their hour of need. Therefore, I ask all my colleagues who care about the welfare of the thousands of small farmers, businessmen, and working people throughout America who are trying desperately to rebuild their homes and their lives to join with me in approving this important amendment.

Mr. President, I commend the Senator from Indiana for his thorough research in connection with the bill and the hearings that have been held all over the country, as well as the provisions in the bill to help the people in my State, mainly those of Mexican-American extraction who were faced with the loss of their homes by mortgage foreclosures where they did not have the funds to make mortgage payments or rent payments. Many of these people worked in plants that were destroyed. The committee adopted my amendment which would provide the money for people to make their rent or mortgage payments. This is a great advancement in the efforts of government to meet the basic needs of disaster victims.

I have offered a limited amendment. I ask the distinguished chairman to accept the more limited amendment at this time.

Mr. BAYH. Mr. President, the Senator from Texas has discussed with me the unique problem he has in Texas now and also the terrible disaster that hit the area along the coast down there. I would have no objection to accepting that particular amendment.

Mr. YARBOROUGH. It is more restrictive than the earlier amendment I offered.

Mr. BAYH. As some of those Senators present know, I had hoped we could get this covered in other areas. I say to my friend I do not know what the attitude of the House will be, but we will certainly try to get it approved.

Mr. YARBOROUGH. I would like to point out that this is not only a Texas amendment. Since that date there have been disasters, declared by the President, in Alabama, North Dakota, Kansas, Florida, New York, and Minnesota. It is not a one-State amendment. It covers situations in those States, as well.

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

Mr. BAYH. I yield.

Mr. DOLE. The amendment provides for the retroactive application of sections 231, 232, and 233, which apply to disaster loans by SBA and FHA and loans held by VA, respectively.

If section 231 is made retroactive to April 1, 1970, loans will require reworking to provide the additional $700 cancellation feature. Another, but perhaps more important, feature of the new act provides for a different interest rate on disaster loans. Thus, if a loan is reworked to include the $700 additional cancellation feature, it appears that the interest rate—estimated at 5⅜ percent—required by the new act would also have to be applied to that loan. This would require that SBA discuss the advantages and disadvantages with each applicant covered by the amendment. It appears that confusion among applicants would result. The act further provides that certain conditions of eligibility for disaster loans be removed. If made retroactive, it would appear SBA would be required to inform persons previously not eligible for loans that they may now qualify, including those who did not apply because they know they did not meet eligibility requirements. This would also require SBA to accept applications for all SBA declared disaster loan areas as well as Presidential declarations of major disasters.

As for section 232, FHA has approved loans that include the $1,800 forgiveness feature authorized by existing statute. The comments made with regard to section 231 also apply to this section.

Furthermore, no benefit to disaster victims would result from retroactive application of section 233, and VA presently has the authority which would be granted by that section. Thus, there is no reason for such action.

But Mr. President, I am not going to object to the amendment, I only raise these questions for the record. I am in sympathy with the objective of the Senator from Texas. If I understand the amendment clearly, it means that SBA will find it necessary to rework some 20,000 loans that have already been made and that it might result in an increase in interest paid by some applicants. Do I understand that sections 232 and 233 would also be added?

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

Mr. BAYH. I yield.

Mr. YARBOROUGH. I believe the Senator is referring to my former amendment. It went back to August of 1969. Under that amendment, there would have been 20,000 loans to review. This limited amendment, as the chairman will verify, would cover only about 3,000 to 4,000 such loans.

Mr. BAYH. Between 3,000 and 4,000.

Mr. YARBOROUGH. Yes; less than one-fifth as many loans as under my earlier amendment. We are hopeful there would be no objection to it.

Mr. DOLE. Does that same date apply to FHA and VA loans—to all three sections?

Mr. YARBOROUGH. All three sections.

Mr. BAYH. All three sections.

Mr. DOLE. I do not know how many FHA loans would be affected by the new date but apparently fewer than 1,000.

With that modification I am willing to accept the amendment of the Senator from Texas.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. YARBOROUGH. Mr. President, I send to the desk another amendment, with which the Senator is familiar. I ask for its acceptance. It relates to damage to real estate in Cameron and Willacy Counties, Tex., where there was a rather unfortunate occurrence.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 65, line 5, after "Act." it is proposed to insert the following:

Funds allocated for the relief of areas devastated by major disasters occurring between July 1, 1967, and December 31, 1970, shall be expended on the basis of costs as certified by State and local governments and shall not be limited to costs estimated by damage surveys made after obligations have been incurred.

Mr. MILLER. Mr. President, will the Senator from Texas yield?

Mr. YARBOROUGH. I yield.

Mr. MILLER. Mr. President, I ask for the yeas and nays on the passage of the bill. I couple this with the observation that I think the Senate is acting on one of the most meaningful pieces of proposed legislation in my 10 years in the Senate. We have had trouble with the House mainly, I think, because the House has not understood some of the background which resulted in this bill. I would hope that we would have a unanimous vote on the bill. I think it would help us in our dealings with the House.

Mr. President, I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

Mr. YARBOROUGH. Mr. President, I digress for a moment from discussing the amendment to concur in the observations of the Senator from Iowa on this great piece of legislation. I want to point out something else. The poor people who suffer in these disasters have no legal representation in the usual case. I have been on the scene. I have an office opened in Corpus Christi to assist disaster victims. I have had as many as four assistants there at a time working with these unfortunate people. There is no Federal money provided for these services. I have had to raise the money to keep this office open.

There is no legal assistance available for the poorer disaster victims. They are not able to hire lawyers to explain to them their rights under the various disaster programs.

The Senator from Alaska (Mr. GRAVEL) and I offered an amendment to S. 3617 which would provide legal assistance to disaster victims when they are not able to hire lawyers for themselves. I am pleased that it was accepted. This is another advancement.

This is a very fine bill. I commend the distinguished Senator from Indiana, the distinguished Senator from West Virginia, and other Senators from both sides of the aisle who have worked out the finest disaster relief bill in the history of the United States.

Now I return to my limited amendment.

The amendment pertains to the Hurricane Beulah disaster which struck the Texas east coast on the morning of September 20, 1967, which was declared a natural disaster by President Johnson on September 28, 1967. Local officials of Cameron and Willacy Counties, two of the most seriously devasted counties in the disaster area, immediately pursued rehabilitation efforts, making every effort to comply with the guidelines of the Office of Emergency Preparedness.

Despite the good faith efforts of these counties and the performance of work by contractors, there has been constant disputing over the reimbursement of expense relating to the rehabilitation efforts, even though the Governor of the State of Texas has certified these costs as well as the local governments. The Governor has also appealed the determinations of the Office of Emergency Preparedness, but unsuccessfully.

The circumstances of this problem are fairly simple. There was a hurricane, and relying on indications that the area would be declared a natural disaster, the counties began the emergency rehabilitation as they should. After the fact and after obligations were made by the counties, OEP made their own damage survey estimate and denied the claims after the obligations had already been incurred.

This is an unforgiveable situation in which the OEP has a contractual obligation to reimburse for reasonable sums expended in performance of eligible work under the Federal Disaster Act and the counties expended substantial sums in reliance on this commitment. There is no allegation that the counties did not make every effort to comply with all the guidelines of OEP, yet their claims have been denied.

If these costs are not reimbursed then it would be unreasonable to assume that any contractor would assist in rehabilitation efforts until he had the cash in hand, since the Government's contracts would be meaningless. It is my understanding that this amendment would cost no new money, since $10 million was allocated for the relief following Hurricane Beulah and there is more than enough remaining to pay these remaining claims.

Mr. President, I ask all Senators to give this amendment their full support.

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

Mr. YARBOROUGH. I yield.

Mr. DOLE. Do I understand correctly that the Senator's amendment is No. 877?

Mr. YARBOROUGH. That is correct.

Mr. DOLE. Has there been any change in the language of amendment No. 877 as it is on our desks?

Mr. YARBOROUGH. No; it is just as it was. Ten million dollars was allocated for relief. It has not been paid. This amendment provides that Cameron and Willacy Counties shall be repaid for their expenses in cleaning up the damage. The taxpayers there are overburdened with the expense. This amendment calls for no new money. The $10 million originally appropriated is still available.

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

Mr. YARBOROUGH. I yield.

Mr. COOPER. I feel an obligation to say something about this proposal, not only because I am the ranking Republican member of the committee, but also, as Kentucky has had many flood disasters, I have some knowledge of situations like this in my own State.

As I read the Senator's amendment, it provides that as to every kind of damage that occurred because of disaster between July 1, 1967, and December 31, 1970, anywhere in the land, when a county or a State sends in a bill and certifies that it is correct, that is all there is to it; the Federal Government will have to pay it. It would simply remove the Federal administrator from the program. The Federal Government would pay the bill for each county or each city which certified to the amount.

The Senator from Texas (Mr. YARBOROUGH) has always been loyal to his State and his people; but having had experience in my own State, in only one or two counties I am glad to say, I must say that I shall have to vote against the proposal of the Senator from Texas.

Mr. YARBOROUGH. The present Governor of my State has been to Washington time after time to seek reimbursement for the debt that the counties incurred. The previous Governor would not ask for a declaration of disaster. The previous Governor incurred the obligation that was paid at that time. There was a hiatus of 8 days until there was a declaration of disaster.

Mr. BAYH. Mr. President, will the Senator permit me to make one observation?

Mr. YARBOROUGH. Yes.

Mr. BAYH. As I understand what the Senator has said, there was a difference between the amount declared to be the cost of cleaning up debris at the time and the later estimate by OEP. The estimated amount has been paid. What the Senator from Texas is trying to do is to have the counties affected reimbursed for the actual cost.

Mr. YARBOROUGH. The actual cost, as the OEP made its estimate, which came in after the money was spent.

Mr. BAYH. The Senator from Texas is free to handle his amendment as he sees fit, but the Senator from Indiana might suggest that, inasmuch as the grievance that concerns the Senator from Texas, as to which he has evidence concerning the disparity between the estimate and the actual cost in two counties—I do not know how many hundreds of counties might be covered by his amendment now—perhaps he would have less opposition from some Senators who are concerned about opening a Pandora's box if he would limit the amendment to the counties affected by disasters which occurred only during the last 6 months of 1967. This would confine the amendment sufficiently to deal with the two grievances that the Senator brings to our attention, without opening a Pandora's box and applying the amendment to the whole country, about which we have no evidence on the actual expenditures which might be involved.

Mr. YARBOROUGH. Mr. President, I ask unanimous consent that I may amend my amendment on line 4 by striking out "1970" and inserting in lieu thereof "1967."

The PRESIDING OFFICER. The Senator from Texas has a right to modify his amendment, and the amendment will be so modified.

Mr. DOLE. Mr. President, I oppose the amendment. As I understand, the work was done on an emergency basis, and that sometimes is necessary. I also understand that the OEP no longer approves contingency contracts; but many efforts have been made, as the Senator from Texas has pointed out, by the Gov-

ernor and others to justify the increased payments.

They have appealed to the OEP; they have appealed to the director; and in each instance, they have not been able to justify the claim that is now presented to the Senate.

In all disasters since Public Law 875 was enacted in 1950, I am informed by OEP that, State and local governments have been advised to go ahead and perform emergency work that they felt was urgent and to file an application as soon as they could. The work would be inspected and surveyed as soon as possible by the State and Federal governments and eligible work would be approved for reimbursement from disaster funds allocated.

This has been the practical thing to do and has been well received by applicants generally. There have been exceptions—generally where contractors have contracted to do work by contingency contract with the understanding that they would accept as payment the amount the applicant collected from OEP; when contractors have charged greatly in excess of prevailing rates in effect in the area; or when work performed was greatly in excess of emergency repairs or temporary replacements or other ineligible work. Contingency contracts are now prohibited by OEP regulations, but were not prohibited when Hurricane Beulah occurred during September 1967.

There have been instances where damage is so extensive that it requires weeks or several months to make complete inspections, write reports and process an application completely. In such instances, the applicants are briefed concerning OEP policies and criteria and advised to go ahead with emergency work with full knowledge that only eligible work is reimbursable. State and Federal representatives are available to local government for consultation on any problems that arise during emergency work.

Procedures for approval of eligible work and for processing claims for payment are covered by OEP circular 4000.5B. As stated in section IV of that circular, the applicant must submit supporting documentation of costs and a certification of the cost of eligible work.

Prior to payment of such claims, Federal or State representatives inspect the completed work and the cost records are audited.

It appears that the intent of the senior Senator from Texas is that the proposed amendment authorizes expenditures based only on costs certified by State and local governments.

I am told that the facts involved in the Cameron and Willacy County claims were carefully considered by the OEP Director in making his decision. Governor Preston Smith appealed these cases to the Director and presented his justification for increased payments. County and State officials, accompanied by the contractor, presented additional information and records, for the Director's consideration, while the appeal was being processed. OEP engineers and auditors, assisted by Bovay, Inc., and by professional staff of other Federal agencies, evaluated the facts involved and justified reimbursement for all identifiable and eligible work.

If these two claims were reopened upon the basis of the amendment consistent with the intent expressed by the Senator from Texas, OEP would make payments without Federal inspection of the work nor audit of costs. This would result in additional payments to Cameron County of $541,482 and to Willacy County of $138,037 to fully satisfy their claims.

We really have a private relief bill for one construction company, the George Consolidated, Inc. Although the money is to go to Cameron County, in the amount of $541,482, and to Willacy County in the amount of $138,037, in fact, it would go to one construction company.

I believe the amendment as amended is even more unfair than it was originally because now we say to other projects, "You are excluded."

This practice would eliminate all control by the Federal Government in the administration of the Disaster Act since it would nullify all criteria, rules and regulations and authorize payment of all obligations incurred at the pleasure of the State and local governments.

The amendment would open the door to a situation that would allow other applicants who had their certified costs reduced by audit to claim full payment of the costs certified regardless of audit findings or eligibility. It would change the basis upon which the Federal disaster assistance program is founded.

In the history of the disaster assistance program, there have been few appeals of decisions by local applicants and few have ever been appealed to the OEP Director. Only two cases have involved litigation to recover additional sums from the United States. One case has been dismissed with prejudice and the other is still pending. I am informed that OEP anticipates no difficulty in making payments to local applicants through State governments nor in obtaining contractors to perform emergency work in accordance with OEP regulations.

Of course, we have no idea what the actual cost in dollars might be, but it would open the door even with the 6 months limitation to other applicants who had their certified costs reduced by audit, to claim full payment.

This is the issue. The costs have been certified, and I believe the amendment, if adopted, would change the basis upon which the Federal disaster assistance program was founded, and which exists today So I, as the ranking member on the Republican side, cannot accept the amendment.

Mr. YARBOROUGH. Mr. President, this is not a private relief bill. It is a disaster relief bill for Willacy and Cameron Counties. It was occasioned by the delay of the Governor of my State in requesting that those counties be declared a major disaster area. Your humble servant was requesting a declaration of a disaster, but the Governor's delay prevailed, and in that time while we were facing this disaster, with the roads ruined and with the debris all over the streets and things, these counties made this contract to clean up damages.

This is not a case of the enlargement of the contract after an additional claim. This was what it cost from the beginning. They certified it; the Governor of Texas had his own observers survey it, and found it was reasonable; but the OEP went in and made a survey later, and, based on their claim of what the damage should have been, they said, "The county has paid too much."

The taxpayers of that county are in the midst of the poverty belt. The poverty belt of America stretches from Brownsville, Tex., the area where these counties are located, through San Diego, Calif. That area along the Mexican border includes the lowest income people in the United States, because it is arid. You cannot raise anything without irrigation, and the only people there who have irrigation are the wealthy people.

There is less tax base there upon which to build the tax burden than anywhere else in the country. In those counties, you will find, as well as on through this belt of Texas, New Mexico, Arizona, and southern California, that this is a poverty belt, with the lowest income and the lowest educational attainments in the Nation. It is not the fault of the people there, Mr. President. Where I grew up, with 38 inches of annual rainfall, if a man just threw some sweet potato slips and a few black-eyed peas and corn in the ground, he could almost make a living. But these people have a tax base already taxed to the breaking point, and then OEP comes in and says, "You should not have paid this much; we are smarter than you are, and we know."

They are smarter after it has all been cleaned up and repaired. They should have been down there when I was. In one of these counties, the county seat of Willacy County, Raymondville, was isolated by the water, by highway, for 6 weeks. You had to take boats and go in there. For 6 weeks they were cut off; and then they had some OEP man come in later and say, "We are going to survey it now; your damage was not this much."

I think it is a just claim, and a matter for which the law provides. We are not trying to create new law; we are just trying to prevent the OEP from misusing these poor counties of America.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ELLENDER). The Chair recognizes the Senator from Colorado.

Mr. ALLOTT. Mr. President, we are here because we are all interested in disaster relief. There were some radical changes made in this law in 1967, I believe, or 1969, particularly, when we provided that the Government could go in on private land and clear away refuse and the deposits of floods and disasters.

I have only this to say, as to principle: I think it is bad to go backward and authorize these things that are in the past. If we are going to do that tonight, I think what we ought to do, to be fair, is that I be given time to prepare a proper amendment, because in the floods of 1965, in Colorado, there were millions of dollars of damage done to private

homes and farmers, ruining some of the best farmland we had in the State; and if we are going to be retroactive in this situation, I think we have to do it across the board with everyone in the country.

I would like an opportunity, then, to prepare tonight an amendment to take into consideration the damage to individuals in those floods. Some of the land, in fact a great deal of the land, has never been cleared of the flood refuse since 1965. That provision has been enacted into law since then, but if we are going to be retroactive—which is a principle I disagree with, and I hope the amendment will be defeated—then I think we ought to have time for the rest of us to come in and be retroactive for a long way.

Several Senators addressed the Chair.

Mr. ALLOTT. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. YARBOROUGH. Mr. President, will the Senator from Colorado yield to me? I believe it will save time.

Mr. ALLOTT. I yield.

Mr. YARBOROUGH. Mr. President, I have just conferred with the authors of the bill, and in view of the lateness of the hour and the opposition, which we did not expect to be as strong, and the other claims to come in also, I would not want to delay the bill beyond tonight, and I will withdraw the amendment and seek other modes of relief. We will offer it some other time, when there is more opportunity for careful consideration.

I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I call up my amendment, which is at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an amendment, for himself and Mr. GRAVEL, as follows:

On page 79, following line 2, insert the following new subsection.

"(c) In the case of any loan made under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)) as a result of the Good Friday earthquake, which occurred on March 27, 1964, the Small Business Administration shall, at the borrower's option, on that part of any loan in excess of $500 cancel (i) the interest due on the loan, or (ii) the principal of the loan, or (iii) any combination of such interest or principal except that the total amount so canceled shall not exceed $1,800."

Mr. STEVENS. Mr. President, this provision is quite similar to section 7 of the Disaster Relief Act of 1969, which provided for forgiveness of these SBA loans in an amount not to exceed $1,800.

On July 6, the Senator from Oklahoma (Mr. BELLMON) introduced for me a bill pertaining to this subject. I ask unanimous consent that I be permitted to have printed in the RECORD at this point the chart showing some 50 areas which were given forgiveness under the 1969 Disaster Relief Act.

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

State, counties, and parishes	Cause	SBA Declaration Date
NORTHEASTERN AREA		
Maine: All areas		Dec. 31, 1969
NEW YORK AREA		
New York: Cattaraugus		Oct. 3, 1967
New Jersey: Bergen, Essex, Middlesex, Morris, Passaic, Somerset, Union.		June 3, 1968
New York: Sullivan		Aug. 1, 1969
MIDDLE ATLANTIC AREA		
Kentucky: Bracken, Greenup, Jessamine, Mason, Pendleton (with Ohio).		Apr. 25, 1968
Ohio:		
Brown, Scioto (with Kentucky).		Apr. 25, 1968
Athens, Butler, Clinton, Gallia, Hocking, Jackson, Ross, Warren.		May 29, 1968
Kentucky: Allen, Warren		June 25, 1969
Ohio: All areas		July 11, 1969
Pennsylvania: Carbon, Schuylkill		Aug. 8, 1969
Virginia: All areas	Rains [1]	Aug. 21, 1969
West Virginia: All areas	do	Aug. 22, 1969
Kentucky: Harlan County	Flood	Jan. 2, 1970
SOUTHEASTERN AREA		
Florida: All areas	([2])	Oct. 21, 1968
Tennessee: Macon		June 25, 1969
Mississippi: All areas	([3])	Aug. 18, 1969
Alabama:		
All areas	([3])	Do.
All areas affected	Tornado	Mar. 27, 1970
MIDWESTERN AREA		
Iowa: All areas		May 17, 1968
Illinois: All areas		Do.
Iowa: Black Hawk, Bremer, Buchanan, Butler.		July 19, 1968
Minnesota:		
Blue Earth		Aug. 12, 1968
All areas (with Iowa, North and South South Dakota, and Wisconsin).		Apr. 15, 1968
Iowa: All areas (with Wisconsin, North and South Dakota, Iowa, and Minnesota).		Do.
Wisconsin: All areas (with Iowa, North and South Dakota, and Minnesota).		Do.
Illinois: Rock Island		May 5, 1969
Minnesota: Nobles		July 2, 1969
Iowa: Marshall, Tama		July 15, 1969
Illinois: Jo Daviess, Stephenson		July 8, 1969
SOUTHWESTERN AREA		
Texas: All areas	([3])	Sep. 20, 1967
Arkansas: Sebastian		Apr. 22, 1968
Arkansas: Garland, Pulaski, Sebastian, Sevier.		May 15, 1968
Arkansas: All areas		May 17, 1968
Oklahoma: LeFlore		May 21, 1968
Texas: All areas	Storm Candy.	June 25, 1968
Louisiana: All areas	([1])	Aug. 18, 1969
Texas:		
Northwest areas	Tornado	Apr. 18, 1970
Lubbock County	do	May 12, 1970
Hayes County	Flood	May 15, 1970
ROCKY MOUNTAIN AREA		
Kansas:		
Ness		June 2, 1967
Garden City, Finney		June 26, 1967
Nebraska: All counties through which 183 passes, etc.		June 16, 1967
North Dakota: All areas (with Minnesota, South Dakota, etc.).		Apr. 15, 1969
South Dakota: All areas (with North Dakota, etc.).		Do.
Kansas: Saline		June 25, 1969
Colorado: Boulder and Jefferson Counties.	Flood	Dec. 26, 1969
North Dakota: Ransom County	do	June 2, 1970
PACIFIC COASTAL AREA		
Alaska: Fairbanks, etc		Aug. 16, 1967
California:		
San Luis Obispo		Jan. 21, 1969
Los Angeles		Jan. 23, 1969
Riverside		Jan. 27, 1969
Fresno, Tulare, Stanislaus		Jan. 29, 1969
Contra Costa		Mar. 3, 1969
Marin County	Flood	Dec. 30, 1969
All areas	do	Feb. 3, 1970

[1] Camille.
[2] Gladys.
[3] Beulah.

Mr. STEVENS. This act extended back to the 1967 disasters, the major disasters, the same provisions that have been made available for Hurricane Betsy, which was the disaster of 1965.

The 1969 act, Mr. President, extended to the Fairbanks flood area the provisions of the forgiveness section. However, the major disaster that we have had in Alaska—as a matter of fact, the major seismic disturbance that has occurred on the North American Continent—occurred on Good Friday in 1964.

This amendment would extend the same privileges to the SBA borrowers, some 1,325 individual homeowners in the Anchorage area, that was received by the victims of the Fairbanks flood in 1967, pursuant to the 1969 act. It is extending the same forgiveness that was made available to the people in 50 areas, including the Fairbanks area, pursuant to the act we passed last year. That provision was written in the House, after the measure had passed this body, and there was no opportunity to attempt to extend equality to the people who suffered as a result of the Good Friday earthquake in Alaska.

I might point out that the 1,325 loans include the loans that were extended to people as far south as California. There were some in Oregon, also. There were 1,325 individual loans issued by the SBA as a result of that Good Friday earthquake.

I seek to have the same forgiveness extended.

Mr. DOLE. Mr. President, I have not conferred with the Senator from Indiana at length with reference to this amendment. I can understand, again, the desire to go backward. In fact, it has been suggested that we go back to the Chicago fire and then include everything from that date. But I recognize the serious tragedy they had in Alaska.

I recognize that we made certain exceptions in the first amendment offered by the Senator from Texas. Does the Senator from Alaska have the estimated cost of this amendment? Does it cover SBA loans, FHA loans and VA loans?

Mr. STEVENS. This covers the SBA loans only, and there are 1,325. A considerable number of those have been repaid. The maximum obligation, if they all received the maximum forgiveness, which is discretionary with the SBA, would be $2.3 million. I am advised that it would be substantially less than that, because a number of them have been paid off, and the SBA has discretion as to how much they forgive.

Mr. DOLE. I want to make the point that by going back to 1964, we leapfrog disasters in the interim. I can recall one in Indiana on Palm Sunday of 1965. I can recall a tornado in Topeka, Kans., in 1966, and there have been many other disasters during that time.

I do not have the same reservation expressed earlier by the Senator from Colorado with reference to retroactivity, but it does appear that there must be some consistency with reference to the application of the provisions. Again, as I said earlier, to be consistent I could not accept the amendment. If the Senator from Indiana wants to accept the amendment, I will not insist on a record vote.

Mr. STEVENS. Mr. President, what I am seeking is consistency. We have a small population in our State, and the flood of 1967 did not touch as many Alaskans as did the earthquake of 1964. Yet, last year the provisions of the forgiveness section were extended to the flood victims. I am merely seeking consistency within our State, so that those people who had SBA loans from the 1964 disaster would receive the same treatment. As I pointed out, some 50 areas in other States—that was in the chart I inserted in the RECORD—have been given similar special relief by virtue of the 1969 amendment, and I feel that this is sheer equity for the people of the area who suffered from the Good Friday earthquake.

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

Mr. STEVENS. I yield.

Mr. MILLER. May I ask the Senator from Alaska a question? Do I correctly understand that in the 1969 act, a provision was inserted in the House which covered the 1967 disaster in Alaska?

Mr. STEVENS. No. May I interrupt my colleague? The provision covered all disasters in the area back to 1967. Some 50 major disasters were covered by that retroactive provision.

Mr. MILLER. But it did not go back to 1964?

Mr. STEVENS. That is right.

Mr. MILLER. The 1964 disaster, if anything, was a lot worse than the others.

But as I understand the Senator, at the time it was possible to consider this bill in conference, it was locked up so that we could not go back to 1964.

Mr. STEVENS. That is correct.

Mr. MILLER. What the Senator from Alaska is trying to do now is to do what should have been done in the House with the 1969 act. I think that to that extent he has a point.

We can take a completely negative attitude on retroactivity. I do not think most of us do. I think there are times when we can make exceptions, and we have all voted for them. If this were something new that had not been taken up before, I would feel differently about it. But I suggest that there was a defect in the 1969 act, and all the Senator from Alaska is trying to do is to fill the void that was left in the 1969 act, which was an exception—it was a retroactive proposition—and he is doing it on a very austere basis.

I hope that this amendment might at least be taken to conference; and if the House does not recognize that there was a defect, then it will not agree to it. But if the House does recognize that there was a defect, then the Senator from Alaska's objective will be achieved.

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

Mr. STEVENS. I yield.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. YARBOROUGH. Is the amendment subject to amendment?

The PRESIDING OFFICER. Yes.

Mr. YARBOROUGH. Mr. President, I send to the desk an amendment and ask that this amendment be adopted to the amendment offered by the Senator from Alaska.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 65, line 5, after "Act." insert the following:

"Funds allocated for the relief of areas devastated by major disaster occurring between July 1, 1967, and December 31, 1967, shall be expended on the basis of costs as certified by State and local governments and shall not be limited to costs estimated by damage surveys made after ob igations have been incurred."

Mr. YARBOROUGH. I request the Senator from Alaska to accept my amendment. It involves several hundred thousand dollars, far less than a million dollars. It does not involve nearly as much as does the amendment of the Senator from Alaska.

Mr. BAYH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alaska yield to the Senator from Indiana?

Mr. STEVENS. I yield.

Mr. BAYH. The Senate will work its will on both amendments, but I think it is important for us to understand what we are in the process of doing.

I said earlier, in private conversations, to the Senator from Texas and to the Senator from Alaska that, so far as the Senator from Indiana was concerned, it seemed that on the merits of both amendments, the Senator from Indiana would not object. But I must admit, if we look back at the argument that was made rather cogently by the Senator from Florida relative to how his constituents are going to feel on this, I ask myself how the good people of Indiana are going to feel, because I do not make this retroactive and include the tornadoes in Indiana, and I begin to see a larger question.

I should like the Senate to be advised that when the original bill finally was considered by the House and we finally got pretty well two-thirds of a loaf last year, the Senator from Indiana tried to get retroactivity for the whole package at that time. The House was adamant. What the House does, of course, is their business. We in the Senate need to take that into consideration a little, I think. I have no objection to the amendment of the Senator from Alaska or the amendment of the Senator from Texas, but I must say that I have a list here of 292 disasters that have occurred in the time span we are talking about. I cannot think of a better way to invest our resources than to plow it back into the areas affected by these disasters.

Mr. STEVENS. May I state to the Senator from Indiana that he is correct, some disasters have been missed, but this provision applies only to the amount for the 1964 earthquake. Most are in the same category, in that they have not been repaid. I agree. We made a major mistake regarding the retroactivity, in not picking up the total areas and giving equality. The bill prospectively has equality in it. From now on, we will authorize SBA to forget a certain portion of the loans designed to help homeowners, which is a good idea, but what I am seeking is specific relief to remedy the situation existing in our State, whereby the people of one area got the relief but the people who had a major disaster did not get the relief. This is, to us, a significant thing, because our people are saying, "How is it that Congress extends relief to people suffering from floods but did not recognize our great disaster up here in 1964?"

I think that was the greatest natural disaster on the northern continent insofar as an earthquake is concerned. We have had several disasters since then which were natural disasters but we are not asking to be included. There have been hurricanes, floods, and other smaller disasters. I do not wish anyone to have a disaster, but ours was a major disaster, "the" major disaster on this continent so far as an earthquake is concerned. All we seek is equity, on that basis.

The Senator from Texas has offered his amendment. Now I know what I am getting into, and I would like to ask the Chair, Do I have the prerogative, Mr. President, of accepting the amendment of the Senator from Texas?

The PRESIDING OFFICER (Mr. JORDAN of Idaho). The Senator has the prerogative of modifying his own amendment but he cannot deal with an amendment offered by another Senator to his own amendment.

Mr. YARBOROUGH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. YARBOROUGH. Can the Senator modify his amendment by accepting my amendment?

The PRESIDING OFFICER. He can do that by accepting the Senator's amendment, by modifying his amendment to incorporate the amendment of the Senator from Texas.

Mr. STEVENS. Mr. President, I accept the Senator's amendment.

Mr. YARBOROUGH. I thank the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I ask that I may modify my amendment accordingly.

The PRESIDING OFFICER. The amendment is so modified.

The question now is on agreeing to the amendment, as modified, of the Senator from Alaska.

Mr. STEVENS. Mr. President, I move adoption of my amendment.

Mr. DOLE. Mr. President, will the Senator from Alaska yield to me?

The PRESIDING OFFICER. The Senator from Alaska still has the floor. Does the Senator from Alaska yield to the Senator from Kansas?

Mr. STEVENS. I yield.

Mr. DOLE. I thank the Senator for yielding. I want to ask, in an effort to be consistent, as indicated earlier, and again I am sympathetic to the views of both Senators from Alaska and also the Senator from Texas, whether the Senator would accept another modification of his amendment to apply it to all disasters since Good Friday, March 27, 1964.

Mr. STEVENS. I will not accept such an amendment. I would be happy to accept an amendment which would apply to any earthquake that was of worse intensity than our 1964 earthquake.

Mr. DOLE. We did not have an earthquake in Kansas, nor did they have one in Indiana, but we had tornadoes and we had casualties in Kansas and Indiana. Millions of dollars worth of damage was done in Kansas. Many loans were made there. There were 292 other disaster areas. If we want to be objective in this matter, we should apply this amendment across the board and not exclude anyone.

Those who were hit by a disaster in Indiana, or Kansas, suffered no less than those living in Alaska, whether it was an earthquake, a tornado, a flood, or whatever.

Mr. STEVENS. I agree. There were two disasters in Kansas out of 50 other areas which we covered in the 1969 amendment. But the major disaster in Alaska was forgotten, unfortunately, although it could have been put back in. Had it occurred here, I would have been arguing here, but it occurred when the matter got to the House and was beyond my control. I feel firmly that equity is equity. The people in Fairbanks got relief from the 1969 amendment. The people who suffered from the major disaster did not receive the same treatment as those who suffered from that same disaster.

Mr. WILLIAMS of Delaware. Is it not true that, regardless of the size of a disaster, to the individual homeowner, to the individual, whether he is in Kansas, New Jersey, or wherever he is, if he has lost his home, that is a major disaster to him of equal proportions, even though his is the only home that was destroyed.

Unfortunately, adoption of the pending amendment, I believe, would create another inequity, on the basis that those who paid their own loans would not get any benefits, but those who were delinquent and did not pay their loans would get benefits from this relief. Would it not only further aggravate the situation by adoption of this amendment? I think it would be most unfair, unless we did it retroactively and included those who paid their loans, wherever they may be.

The next question is, to find the money to pay for it.

Mr. STEVENS. We were not being inequitable in the areas such as New York, New Jersey, or Kentucky in the year 1969. We went back to January—I forget the exact date—but it went back to—oh, July 1, 1967—we crossed that bridge and decided that we would wipe out a portion of the loans to assist the homeowners. The next problem is—the Senator is right—to an individual, a disaster is a disaster, but to a community that suffers total disaster such as at Anchorage, the amount being sent out there to repay the loans is just that much less to enable us to redevelop the area.

That is why section 321 is in the bill. It gives the homeowner a certain portion of the money with which he seeks to buy furniture, and do all the other things with the money he might receive to repay his home, because he has rebuilt it. The whole theory of the bill is what I am arguing. I say that this is equitable, and what the Senator from Texas seeks is equitable. I hope that the Senate will adopt the amendment.

Mr. ALLOTT. Mr. President, I was hoping that the Senator from Alaska would withdraw his amendment as amended. I am extremely sorry that the senior Senator from New Mexico is not in the Chamber at this time because he knows more than anyone else in great detail the actual amount of money that we, as the Government, contributed to Alaska at the time of its great disaster.

Of course, a disaster is only measured in terms of individuals and how it affects individuals. But I will have to say that I do not care how this amendment is handled. If it should by some unfortunate circumstance pass, I intend to ask for a quorum call and to go on and on until I have ample time to prepare an amendment. I do not know how far I am going with that.

I might go back to the 1965 flood in Colorado, or I might go back to the 1921 flood in Colorado, or I might even go back to the Galveston hurricane which I believe was—what?—1898?——

Mr. WILLIAMS of Delaware. Or the Chicago fire.

Mr. ALLOTT. Yes, or the Chicago fire in the 1800's. I use these dates only to illustrate how utterly foolhardy this situation is. I hope that the amendment will be rejected.

Mr. EASTLAND. Mr. President, I wish to state my firm belief that the pending legislation is the most comprehensive and inclusive disaster relief program ever considered by the Congress.

It is the product of years of dedicated effort led by the distinguished Senator from Indiana. It reflects the truly outstanding work done by the staff of Public Works. It is a distillation of the best portions of the Alaska, California, Indiana, Betsy, and other bills. And—it was refined by that unprecedented catastrophe called Camille.

Hurricane Camille, described by the National Hurricane Center in Miami as "the greatest storm of any kind that has ever affected the Nation," took the lives of 265 of our citizens—leaves 55 persons still unaccounted for—injured more than 9,000—inflicted losses on 78,000 families—and—cost us $1½ billion in damages.

Since that terrible storm we have suffered major disasters in 19 States, the most destructive of which were the Lubbock tornadoes and Hurricane Celia.

Sadly—Mr. President—we must anticipate additional catastrophes which will afflict Americans across our land. We cannot prevent the occurrence of these rampages of nature. We can—however—and we must do everything this Government is capable of to lessen the human suffering which always accompanies calamities.

We have the tools we need for this vital mission in the provisions of S. 3619. This legislative package—I am proud to say—supports the restoration of structures—and—of much more importance—it offers the hand of meaningful assistance to the average American man and woman. It provides for the rehabilitation of people as well as for the rebuilding of facilities.

Finally, Mr. President, it would write into law a broad and effective response to disaster—not after the fact—but in advance of these catastrophic events. No longer will we seek legislative cures after our people are hurt and our property destroyed. Now—at long last—we will have in our hands the weapons to fight the fury of natural disaster—and—we will have a program ready to go into immediate and effective action hours—not months—after the storm or the earthquake or the flood subsidies.

I am proud to be a cosponsor of this legislation. In the interest of America and every American I urge the passage of S. 3619.

Mr. HARRIS. Mr. President, I rise in support of S. 3619, the Omnibus Disaster Assistance Act, as reported by the Committee on Public Works. I am a cosponsor of the original version of S. 3619, and I feel the committee has made some important improvements in the legislation.

As the committee report states:

> This bill seeks to coordinate disaster relief and recovery efforts of all appropriate Federal, State and local authorities, and relief and disaster assistance organizations under a single, permanent law, so that when disaster strikes anywhere in the country—as inevitably it will—the full resources of both public and private sectors may be brought to bear to meet the immediate challenge and to undertake the long, and difficult costly task of repair, rehabilitation, reconstruction and replacement.

I know the adoption of this legislation will go a long way toward relieving the burden of those who suffer the destruction and loss caused by a flood, tornado, hurricane, or similar disaster.

I was especially happy to have joined with my distinguished colleagues, Mr. YARBOROUGH, as a cosponsor of his amendment to the omnibus disaster bill, S. 3619. Senator YARBOROUGH's amendment provided that special assistance would be available to victims of natural disasters who are threatened with the loss of their homes as a result of foreclosures, cancellation, or termination of their mortgages or leases because of the effect of major disasters. The amendment authorizes the SBA to provide assistance to such people on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who as a result of financial hardship caused by a major disaster have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease.

Mr. President, I wish to commend the distinguished Senator from Texas (Mr. YARBOROUGH) for his work in preparing this important amendment, and I wish to commend the Senate Public Works Committee for recognizing its merits and adopting its provisions as a part of S. 3619. The State of Oklahoma is often annually stricken by one or more destructive tornadoes. Many families have suffered the loss of their homes and all their belongings because of these natural disasters, and I feel the provisions of the

omnibus disaster bill, which will provide special assistance to these people in order to assist them in making their mortgage payments or rental payments, will keep them from suffering total financial ruin and will give them the help needed to put them back on the road to economic recovery and financial security.

Mr. STENNIS. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill.

The PRESIDING OFFICER (Mr. JORDAN of Idaho). Without objection, it is so ordered.

Mr. ALLEN. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill.

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

Mr. ELLENDER. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the bill.

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

The question is on agreeing to the amendment as modified.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute as amended.

The committee amendment in the nature of a substitute was rejected.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill 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 assistant legislative clerk called the roll.

Mr. BYRD of West Virginia. I announce that the Senator from New Mexico (Mr. ANDERSON), the Senator from Nevada (Mr. BIBLE), the Senator from North Dakota (Mr. BURDICK), the Senator from Virginia (Mr. BYRD), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Indiana (Mr. HARTKE), the Senator from Iowa (Mr. HUGHES), the Senator from Washington (Mr. JACKSON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Minnesota (Mr. MCCARTHY), the Senator from Wyoming (Mr. MCGEE), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from Montana (Mr. METCALF), the Senator from New Mexico (Mr. MONTOYA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Georgia (Mr. RUSSELL), the Senator from Missouri (Mr. SYMINGTON), the Senator from Maryland (Mr. TYDINGS), the Senator from Ohio (Mr. YOUNG), and the Senator from Idaho (Mr. CHURCH) are necessarily absent.

I also announce that the Senator from Maine (Mr. MUSKIE) and the Senator from New Jersey (Mr. WILLIAMS) are officially absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), the Senators from Washington (Mr. JACKSON and Mr. MAGNUSON), the Senator from Wyoming (Mr. MCGEE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from New Jersey (Mr. WILLIAMS) would each vote "yea."

Mr. GRIFFIN. I announce that the Senators from Vermont (Mr. AIKEN and Mr. PROUTY), the Senator from Utah (Mr. BENNETT), the Senator from New Hampshire (Mr. COTTON), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senators from Arizona (Mr. FANNIN and Mr. GOLDWATER), the Senator from New York (Mr. GOODELL), the Senator from Florida (Mr. GURNEY), the Senator from Wyoming (Mr. HANSEN), the Senator from California (Mr. MURPHY), and the Senator from Texas (Mr. TOWER) are necessarily absent.

The Senator from South Dakota (Mr. MUNDT) is absent because of illness.

The Senator from Delaware (Mr. BOGGS), the Senator from Maryland (Mr. MATHIAS), and the Senator from Pennsylvania (Mr. SCHWEIKER) are absent on official business.

The Senator from Massachusetts (Mr. BROOKE), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are detained on official business.

If present and voting, the Senator from Delaware (Mr. BOGGS), the Senator from Massachusetts (Mr. BROOKE), the Senator from Colorado (Mr. DOMINICK), the Senator from Hawaii (Mr. FONG), the Senator from New York (Mr. GOODELL), the Senator from South Dakota (Mr. MUNDT), the Senator from California (Mr. MURPHY), the Senator from Illinois (Mr. PERCY), the Senator from Vermont (Mr. PROUTY), the Senator from Texas (Mr. TOWER) would vote "yea."

The result was announced—yeas 54, nays 0, as follows:

[No. 286 Leg.]

YEAS—54

Allen	Griffin	Packwood
Allott	Harris	Pastore
Baker	Hart	Pearson
Bayh	Hatfield	Pell
Bellmon	Holland	Proxmire
Byrd, W. Va.	Hollings	Randolph
Case	Hruska	Saxbe
Cook	Inouye	Scott
Cooper	Javits	Smith, Maine
Cranston	Jordan, N.C.	Smith, Ill.
Curtis	Jordan, Idaho	Sparkman
Dole	Long	Spong
Eagleton	Mansfield	Stennis
Eastland	McClellan	Stevens
Ellender	Miller	Talmadge
Ervin	Mondale	Thurmond
Gore	Moss	Williams, Del.
Gravel	Nelson	Yarborough

NAYS—0

NOT VOTING—46

Aiken	Goldwater	Mundt
Anderson	Goodell	Murphy
Bennett	Gurney	Muskie
Bible	Hansen	Percy
Boggs	Hartke	Prouty
Brooke	Hughes	Ribicoff
Burdick	Jackson	Russell
Byrd, Va.	Kennedy	Schweiker
Cannon	Magnuson	Symington
Church	Mathias	Tower
Cotton	McCarthy	Tydings
Dodd	McGee	Williams, N.J.
Dominick	McGovern	Young, N. Dak.
Fannin	McIntyre	Young, Ohio
Fong	Metcalf	
Fulbright	Montoya	

So the bill (S. 3619) was passed as follows:

S. 3619

An act to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

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 "Disaster Assistance Act of 1970".

TITLE I—FINDINGS AND DECLARATIONS; DEFINITIONS

FINDINGS AND DECLARATIONS

Sec. 101. (a) The Congress hereby finds and declares that—

(1) because loss of life, human suffering, loss of income, and property loss and damage result from major disasters such as hurricanes, tornadoes, storms, floods, high waters, wind-driven waters, tidal waves, earthquakes, droughts, fires, and other catastrophes; and

(2) because such disasters disrupt the normal functioning of government and the community, and adversely affect individual persons and families with great severity; special measures, designed to expedite the rendering of aid, assistance, and emergency welfare services, and the reconstruction and rehabilitation of devastated areas, are necessary.

(b) It is the intent of the Congress, by this Act, to provide an orderly and continuing means of alleviating the suffering and damage which result from such disasters by—

(1) revising and broadening the scope of existing major disaster relief programs;

(2) encouraging the development of comprehensive disaster relief plans, programs, and organizations by the States; and

(3) achieving greater coordination and responsiveness of Federal major disaster relief programs.

DEFINITIONS

SEC. 102. As used in this Act—

(1) "major disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake, drought, fire, or other catastrophe in any part of the United States, which in the determination of the President, is or threatens to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement the efforts and available resources of States, local governments, and relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby, and with respect to which the Governor of any State in which such catastrophe occurs or threatens to occur certifies the need for disaster assistance under this Act and gives assurance of the expenditure of a reasonable amount of the funds of such State, its local governments, or other agencies for alleviating the damage, loss, hardship or suffering resulting from such catastrophe;

(2) "United States" means the fifty States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "State" means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands;

(4) "Governor" means the chief executive of any State;

(5) "local government" means any county, city, village, town, district, or other political subdivision of any State, and includes any rural community or unincorporated town or village for which an application for assistance is made by a State or political subdivision thereof;

(6) "Federal agency" means any department, independent establishment, Federal corporation, or other agency of the executive branch of the Federal Government, except the American National Red Cross; and

(7) "Director" means the Director of the Office of Emergency Preparedness.

TITLE II—THE ADMINISTRATION OF DISASTER ASSISTANCE

PART A—GENERAL PROVISIONS

FEDERAL COORDINATING OFFICER

SEC. 201. (a) The President shall appoint, immediately upon his designation of a major disaster area, a Federal coordinating officer to operate under the Office of Emergency Preparedness in such area.

(b) In order to effectuate the purposes of this Act, the coordinating officer, within the designated area, shall

(1) make an initial appraisal of the types of relief most urgently needed;

(2) establish such field offices as he deems necessary and as are authorized by the Director;

(3) coordinate the administration of relief, including activities of the American National Red Cross and of other relief organizations which agree to operate under his advice or direction; and

(4) take such other action, consistent with authority delegated to him by the Director, and consistent with the provisions of this Act, as he may deem necessary to assist local citizens and public officials in promptly obtaining assistance to which they are entitled.

EMERGENCY SUPPORT TEAMS

SEC. 202. The Director is authorized to form emergency support teams of personnel to be deployed in a major disaster area. Such emergency support teams shall assist the Federal coordinating officer in carrying out his responsibilities pursuant to section 201(b) of this Act.

COOPERATION OF FEDERAL AGENCIES

SEC. 203. (a) In any major disaster, Federal agencies are hereby authorized, on direction of the President, to provide assistance by—

(1) utilizing or lending, with or without compensation therefor, to States and local governments, their equipment, supplies, facilities, personnel, and other resources, other than the extension of credit under the authority of any Act;

(2) distributing or rendering, through the American National Red Cross, other relief and disaster assistance organizations, or otherwise, medicine, food, and other consumable supplies, or emergency assistance;

(3) donating or lending equipment and supplies determined in accordance with applicable laws to be surplus to the needs and responsibilities of the Federal Government; and

(4) performing on public or private lands or waters any emergency work essential for the protection and preservation of life and property, including—

(A) clearing and removing debris and wreckage;

(B) making repairs to, or restoring to service, public facilities, belonging to State of local governments, which were damaged or destroyed by a major disaster except that the Federal contribution therefor shall not exceed the net cost of restoring such facilities to their capacity prior to such disaster;

(C) providing emergency shelter for individuals and families who, as a result of a major disaster, require such assistance; and

(D) making contributions to State or local governments for the purpose of carrying out the provisions of paragraph (4).

(b) Emergency work performed under subsection (a)(4) of this section shall not preclude Federal assistance under any other section of this Act.

(c) Federal agencies may be reimbursed for expenditures under section 203(a) from funds appropriated for the purposes of this Act. Any funds received by Federal agencies as reimbursement for services or supplies furnished under the authority of this section shall be deposited to the credit of the appropriation or appropriations currently available for such services or supplies.

(d) The Federal Government shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of a Federal agency or an employee of the Federal Government in carrying out the provisions of this section.

(e) Any Federal agency designated by the President to exercise authority under this Act may establish such special groups, interdepartmental or otherwise, as it deems appropriate to assist in carrying out the provisions of law relating to Federal disaster preparedness and assistance, and the funds of any such agency may be utilized for the necessary expenses of any such group so established.

(f) In carrying out the purposes of this Act, any Federal agency is authorized to accept and utilize the services or facilities of any State or local government, or of any agency, office, or employee thereof, with the consent of such government. Any Federal agency, in performing any activities under this section, is authorized to appoint and fix the compensation of such temporary personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of such title relating to classification and General Schedule pay rates, to employ experts and consultants in accordance with the provisions of section 3109 of such title, and to incur obligations on behalf of the United States by contract or otherwise for the acquisition, rental, or hire of equipment, services, materials, and supplies for shipping, drayage, travel, and communication, and for the supervision and administration of such activities. Such obligations, including obligations arising out of the temporary employment of additional personnel, may be incurred by an agency in such amount as may be made available to it by the President.

(g) In the interest of providing maximum mobilization of Federal assistance under this Act, the President is authorized to coordinate in such manner as he may determine the activities of Federal agencies in providing disaster assistance. The President may direct any Federal agency to utilize its available personnel, equipment, supplies, facilities, and other resources in accordance with the authority herein contained. The President may prescribe such rules and regulations as may be necessary and proper to carry out any of the provisions of this Act, and he may exercise any power or authority conferred on him by any section of this Act either directly or through such Federal agency as he may designate.

(h) The President, acting through the Office of Emergency Preparedness, shall conduct periodic reviews (at least annually) of the activities of Federal and State departments or agencies providing disaster assistance, in order to assure maximum coordination of such programs, and to evaluate progress being made in the development of Federal, State, and local preparedness to cope with major disasters.

USE OF LOCAL FIRMS AND INDIVIDUALS

SEC. 204. In the expenditure of Federal funds for debris clearance, distribution of supplies, reconstruction, and other major disaster assistance activities which may be carried out by contract with private organizations, firms, or individuals, preference shall be given, to the extent feasible and practicable, to those organizations, firms, and individuals who reside or do business primarily in the disaster area.

FEDERAL GRANT-IN-AID PROGRAMS

SEC. 205. Any Federal agency charged with the administration of a Federal grant-in-aid program is authorized, if so requested by the applicant State or local authorities, to modify or waive, for the duration of a major disaster proclamation, such conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the disaster.

STATE DISASTER PLANS

SEC. 206. (a) The President is authorized to provide assistance to the States in developing comprehensive plans and practicable programs for preparation against major disasters, and for relief and assistance for individuals, businesses, and local governments following such disasters. Such plans should include long-range recovery and reconstruction assistance plans for seriously damaged or destroyed public and private facilities.

(b) The President is authorized to make grants of not more than $250,000 to any State, upon application therefor, for not to exceed 50 per centum of the cost of developing such plans and programs.

(c) Any State desiring assistance under this section shall designate or create an agency which is specially qualified to plan and administer such a disaster relief program, and shall, through such agency, submit a State plan to the President, which shall—

(1) set forth a comprehensive and detailed State program for preparation against, and relief following, a major disaster, including provisions for emergency and long-term assistance to individuals, businesses, and local governments; and

(2) include provision for the appointment of a State coordinating officer to act in cooperation with the Federal coordinating officer appointed under section 201 of this Act.

(d) From time to time the Director shall make a report to the President, for submission to the Congress, containing his recommendations for programs for the Federal role in the implementation and funding of comprehensive disaster relief plans, and such other recommendations relating to the Federal role in disaster relief activities as he deems warranted.

(e) The President is authorized to make grants not to exceed $25,000 per annum to any State in an amount not to exceed 50 per centum of the cost for the purpose of improving, maintaining, and updating that State's disaster assistance plans.

USE AND COORDINATION OF RELIEF ORGANIZATIONS

SEC. 207. (a) In providing relief and assistance following a major disaster, the Director may utilize, with their consent, the personnel and facilities of the American National Red Cross, the Salvation Army, the Mennonite Board of Missions and Charities, and other relief or disaster assistance organizations, in the distribution of medicine food, supplies, or other items, and in the restoration, rehabilitation, or reconstruction of community services and essential facilities, whenever the Director finds that such utilization is necessary.

(b) The Director is authorized to enter into agreements with the American National Red Cross and other relief or disaster assistance organizations under which the disaster relief activities of such organizations may be coordinated by the Federal coordinating officer whenever such organizations are engaged in providing relief during and after a major disaster. Any such agreement shall include provisions conditioning use of the facilities of the Office of Emergency Preparedness and the services of the coordinating officer upon compliance with regulations promulgated by the Director under

sections 208 and 209 of this Act, and such other regulations as the Director may require.

DUPLICATION OF BENEFITS

SEC. 208. (a) The Director, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as the result of a major disaster, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program.

(b) The Director shall assure that no person, business concern, or other entity receives any Federal assistance for any part of a loss suffered as the result of a major disaster if such person, concern, or entity received compensation from insurance or any other source for that part of such a loss. Partial compensation for a loss or a part of a loss resulting from a major disaster shall not preclude additional Federal assistance for any part of such a loss not compensated otherwise.

(c) Whenever the Director determines (1) that a person, business concern, or other entity has received assistance under this Act for a loss and that such person, business concern or other entity received assistance for the same loss from another source, and (2) that the amount received from all sources exceeded the amount of the loss, he shall direct such person, business concern, or other entity to pay to the Treasury an amount, not to exceed the amount of Federal assistance received, sufficient to reimburse the Federal Government for that part of the assistance which he deems excessive.

NONDISCRIMINATION IN DISASTER ASSISTANCE

SEC. 209. (a) The Director shall issue, and may alter and amend, such regulations as may be necessary for the guidance of personnel carrying out emergency relief functions at the site of a major disaster. Such regulations shall include provisions for insuring that the distribution of supplies, the processing of applications, and other relief and assistance activities shall be accomplished in an equitable and impartial manner, without discrimination on the grounds of race, color, religion, nationality, sex, age, or economic status prior to a major disaster.

(b) As a condition of participation in the distribution of assistance or supplies under section 207, relief organizations shall be required to comply with regulations relating to nondiscrimination promulgated by the Director, and such other regulations applicable to activities within a major disaster area as he deems necessary for the effective coordination of relief efforts.

ADVISORY PERSONNEL

SEC. 210. The Director is authorized to assign advisory personnel to the chief executive officer of any State or local government within a major disaster area, upon request by such officer, whenever the Director determines that such assignment is desirable in order to insure full utilization of relief and assistance resources and programs.

DISASTER WARNINGS

SEC. 211. The President is authorized to utilize or to make available to Federal, State, and local agencies the facilities of the civil defense communications system established and maintained pursuant to section 201(c) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. app. 2281(c)), for the purpose of providing needed warning to governmental authorities and the civilian population in areas endangered by imminent major disasters.

PART B—EMERGENCY RELIEF

PREDISASTER ASSISTANCE

SEC. 221. To avert or lessen the effects of a major disaster, the President is authorized, without declaring a major disaster, to utilize Federal resources in providing disaster assistance to any State to assist such State or any local government thereof in circumstances which clearly indicate the imminent occurrence of a major disaster.

EMERGENCY COMMUNICATIONS

SEC. 222. The Director is authorized to establish emergency communications in any major disaster area in order to carry out the functions of his office, and to make such communications available to State and local government officials and other persons as he deems appropriate.

EMERGENCY PUBLIC TRANSPORTATION

SEC. 223. The Director is authorized to provide public transportation service to meet emergency needs in a major disaster area. Such service will provide transportation to governmental offices, supply centers, stores, post offices, schools, major employment centers, and such other places as may be necessary in order to enable the community to resume its normal pattern of life as soon as possible.

DEBRIS REMOVAL GRANTS

SEC. 224. The President, whenever he determines it to be in the public interest, is authorized to make grants to any State or local government for the purpose of removing debris on privately owned lands or waters as a result of a major disaster, and is authorized to make payments through such State or local government for the removal of debris from community areas which may include the private property of an individual. No benefits will be available under this section unless such State or local government arranges unconditional authorization for removal of debris from such property and agrees to indemnify the Federal Government against any claims arising from such debris removal.

FIRE SUPPRESSION GRANTS

SEC. 225. The President is authorized to provide assistance, including grants, to any State for the suppression of any fire on publicly or privately owned forest or grassland which threatens such destruction as would constitute a major disaster.

TEMPORARY HOUSING ASSISTANCE

SEC. 226. (a) The Director is authorized to provide on a temporary basis, as prescribed in this section, dwelling accommodations for individuals and families who, as a result of a major disaster, are in need of assistance by (1) using any unoccupied housing owned by the United States under any program of the Federal Government, (2) arranging with a local public housing agency for using unoccupied public housing units, or (3) acquiring existing dwellings or mobile homes or other readily fabricated dwellings, by purchase or lease. Notwithstanding any other provision of law, any existing dwellings, mobile homes, or readily fabricated dwellings acquired by purchase may be sold directly to individuals and families who are occupants of such temporary accommodations at prices that are fair and equitable. Any mobile home or readily fabricated dwelling shall be placed on a site complete with utilities provided by State or local government, or by the owner or occupant of the site who was displaced by the major disaster, without charge to the United States. However, the Director may elect to provide other more economical and accessible sites at Federal expense when he determines such action to be in the public interest.

(b) After the initial ninety days of occupancy without charge, rentals shall be established for such accommodations, under such rules and regulations as the Director may prescribe, taking into account the financial resources of the occupant. In case of financial hardship, rentals may be compromised, adjusted, or waived for a period not to exceed twelve months from the date of occupancy, but in no case shall any such individual or family be required to incur a monthly housing expense (including any fixed expense relating to the amortization of debt owing on a house destroyed or damaged in a major disaster) which is in excess of 25 per centum of the monthly income of the occupant or occupants.

(c) The Director is further authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, oral or written. Such assistance shall be provided for a period of not to exceed one year or for the duration of the period of financial hardship, whichever is the lesser. The Director shall, for the purposes of this subsection and in furtherance of the purposes of section 240 of this Act, provide reemployment assistance services to individuals who are unemployed as a result of a major disaster.

PART C—RECOVERY ASSISTANCE

SMALL BUSINESS DISASTER LOANS

SEC. 231. (a) In the administration of the disaster loan program under section 7(b)(1) of the Small Business Act, as amended (15 U.S.C. 636(b)), in the case of property loss or damage resulting from a major disaster as determined by the President or a disaster as determined by the Administrator, the Small Business Administration—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so canceled shall not exceed $2,500, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may make any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) in the case of the total destruction of, or substantial property damage to, a home or business concern, may refinance any mortgage or other liens outstanding against the destroyed or damaged property if such refinancing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this subsection.

(b) Section 7 of the Small Business Act is amended—

(1) by revising paragraph (2) of subsection (b) to read as follows:

"(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small business concern located in an area affected by a disaster, if the Administration determines that the concern has suffered a substantial economic injury as a result of such disaster;";

(2) by striking from the second sentence

of subsection (b) the following: "meeting the requirements of clause (A) or (B) of paragraph (2) of this subsection,"; and

(3) by striking from subsection (f) the following: "in the case of property loss or damage as the result of a disaster which is a 'major disaster' as defined in section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a)),".

FARMERS HOME ADMINISTRATION EMERGENCY LOANS

SEC. 232. In the administration of the emergency loan program under subtitle C of the Consolidated Farmers Home Administration Act of 1961, as amended (7 U.S.C. 1961–1967), and the rural housing loan program under section 502 of title V of the Housing Act of 1949, as amended (42 U.S.C. 1472), in the case of loss or damage, resulting from a major disaster, to property, including household furnishings, the Secretary of Agriculture—

(1) to the extent such loss or damage is not compensated for by insurance or otherwise, (A) shall, on that part of any loan in excess of $500, cancel the principal of the loan, except that the total amount so cancelled shall not exceed $2,500, and (B) may defer interest payments or principal payments, or both, in whole or in part, on such loan during the first three years of the term of the loan without regard to the ability of the borrower to make such payments;

(2) may grant any loan for the repair, rehabilitation, or replacement of property damaged or destroyed, without regard to whether the required financial assistance is otherwise available from private sources; and

(3) in the case of the total destruction of, or substantial property damage to a home or business concern may refinance any mortgage or other liens outstanding against the destroyed or damaged property if such refinancing is for the repair, rehabilitation, or replacement of property damaged or destroyed as a result of such disaster and any such refinancing shall be subject to the provisions of clauses (1) and (2) of this section.

LOANS HELD BY THE VETERANS' ADMINISTRATION

SEC. 233. (1) Section 1820(a)(2) of title 38, United States Code, is amended to read as follows:

"(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;"

(2) Section 1820(f) of title 38, United States Code, is amended to read as follows:

"(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Administrator under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Assistance Act of 1970, the Administrator shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forbearance or indulgence to such owner as the Administrator determines to be warranted by the facts of the case and the circumstances of such owner."

DISASTER LOAN INTEREST RATES

SEC. 234 (a) Any loan made under the authority of sections 231, 232, 236(b), 237, or 241 of this Act shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on oustanding marketable obligations of the United States with remaining periods of maturity of ten to twelve years less not to exceed 2 per centum per annum.

(b) The next to the last sentence of section 7(b) of the Small Business Act is amended by striking out all that follows "exceed" and inserting in lieu thereof the following: "a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining period of maturity of ten to twelve years less not to exceed 2 per centum per annum."

AGE OF APPLICANT FOR LOANS

SEC. 235. In the administration of any Federal disaster loan program under the authority of sections 231, 232, or 233 of this Act, the age of any adult loan applicant shall not be considered in determining whether such loan should be made or the amount of such loan.

FEDERAL LOAN ADJUSTMENTS

SEC. 236. (a) In addition to the loan extension authority provided in section 12 of the Rural Electrification Act, the Secretary of Agriculture is authorized to adjust and readjust the schedules for payment of principal and interest on loans to borrowers under programs administered by the Rural Electrification Administration, and to extend the maturity date of any such loan to a date not beyond forty years from the date of such loan where he determines such action is necessary because of the impairment of the economic feasibility of the system, or the loss, destruction, or damage of the property of such borrowers as a result of a major disaster.

(b) The Secretary of Housing and Urban Development is authorized to refinance any note or other obligation which is held by him in connection with any loan made by the Department of Housing and Urban Development or its predecessor in interest, or which is included within the revolving fund for liquidating programs established by the Independent Offices Appropriation Act of 1955, where he finds such refinancing necessary because of the loss, destruction, or damage (as a result of a major disaster) to property or facilities securing such obligations. The Secretary may authorize a suspension in the payment of principal and interest charges on, and an additional extension in the maturity of, any such loan for a period not to exceed five years if he determines that such action is necessary to avoid severe financial hardship.

AID TO MAJOR SOURCES OF EMPLOYMENT

SEC. 237. (a) The Small Business Administration in the case of a nonagricultural enterprise, and the Farmers Home Administration in the case of an agricultural enterprise, are authorized to provide any industrial, commercial, agricultural, or other enterprise, which has constituted a major source of employment in an area suffering a major disaster and which is no longer in substantial operation as a result of such disaster, a loan in such amount as may be necessary to enable such enterprise to resume operations in order to assist in restoring the economic viability of the disaster area. Loans authorized by this section shall be made without regard to limitations on the size of loans which may otherwise be imposed by any other provision of law or regulation promulgated pursuant thereto.

(b) Assistance under this section shall be in addition to any other Federal disaster assistance, except that such other assistance may be adjusted or modified to the extent deemed appropriate by the Director under the authority of section 208 of this Act. Any loan made under this section shall be subject to the interest requirements of section 234 of this Act, but the President, if he deems it necessary, may defer payments of principal and interest for a period not to exceed three years after the date of the loan.

FOOD COUPONS AND DISTRIBUTION

SEC. 238. (a) Whenever the President determines that, as a result of a major disaster, low-income households are unable to purchase adequate amounts of nutritious food, he is authorized, under such terms and conditions as he may prescribe, to distribute through the Secretary of Agriculture coupon allotments to such households pursuant to the provisions of the Food Stamp Act of 1964 and to make surplus commodities available pursuant to the provisions of section 203 of this Act.

(b) The President, through the Secretary of Agriculture is authorized to continue to make such coupon allotments and surplus commodities available to such households for so long as he determines necessary, taking into consideration such factors as he deems appropriate, including the consequences of the major disaster on the earning power of the households to which assistance is made available under this section.

(c) Nothing in this section shall be construed as amending or otherwise changing the provisions of the Food Stamp Act of 1964 except as they relate to the availability of food stamps in a major disaster area.

LEGAL SERVICES

SEC. 239. Whenever the Director determines that low-income individuals are unable to secure legal services adequate to meet their needs as a consequence of a major disaster, he shall assure the availability of such legal services as may be needed by these individuals because of conditions created by a major disaster. Whenever feasible, and consistent with the goals of the program authorized by this section, the Director shall assure that the programs are conducted with the advice and assistance of appropriate Federal agencies and State and local bar associations.

UNEMPLOYMENT ASSISTANCE

SEC. 240. The President is authorized to provide to any individual unemployed as a result of major disaster, such assistance as he deems appropriate while such individual is unemployed. Such assistance as the President shall provide shall not exceed the maximum amount and the maximum duration of payment under the unemployment compensation program of the State in which the disaster occurred, and the amount of assistance under this section to any such individual shall be reduced by any amount of unemployment compensation or of private income protection insurance compensation available to such individual for such period of unemployment.

COMMUNITY DISASTER LOAN FUND

SEC. 241. (a) There is established within the Treasury a Community Disaster Loan Fund from which the President may authorize loans to local governments for the purposes of meeting payments of principal and interest on outstanding bonded indebtedness, for providing the local share of any Federal grant-in-aid program which is designed to assist in the restoration of an area damaged by a major disaster, or for providing and maintaining essential public services. Such loans shall be made only if the local government has suffered a loss of either more than 25 per centum of its tax base or such a substantial amount that it is otherwise unable to meet such payments, local share obligations, or the cost of essential public services.

(b) Loans from the Fund established by this section shall be without interest for the first two years, shall be made for such periods as may be necessary, not to exceed twenty years, and shall bear interest after

the first two years at a rate prescribed in section 234. The President may defer initial payments on such a loan for a period not to exceed five years or half the term of the loan, whichever is less. Any loans under this section may be made for a local government's fiscal year in which the disaster occurred and for each of the following two fiscal years. Loans for any year shall not exceed the difference between the average annual property tax revenue received by the local government for the three-year period preceding the major disaster and the local government's accrued property tax revenue for each of the three years following the major disaster. For purposes of computations under this section, the tax rate and tax assessment valuation factors in effect at the time of the disaster shall not be reduced during the three-year period following the disaster.

(c)(1) The President may transfer to the Fund such sums as he may determine to be necessary from the appropriations available to him for disaster relief. All amounts received as interest payments or repayments of principal on loans, and any other moneys, property, or assets derived from operations in connection with this section shall be deposited to the Fund.

(2) All loans, expenses, and payments pursuant to operations under this section shall be paid from the Fund. From time to time, and at least at the close of each fiscal year, there shall be paid from the Fund into the Treasury, as miscellaneous receipts, interest on the average amount of appropriations accumulated as capital to the Fund, less the average undisbursed cash balance in the Fund during the year. The rate of such interest shall not exceed any rate determined under section 234 for loans from the Fund. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest. If at any time the President determines that moneys in the Fund exceed the present and any reasonably prospective future requirements of the Fund, such excess may be transferred to the general fund of the Treasury or to the appropriations available to the President for disaster relief.

(d) There are hereby authorized to be appropriated such sums, not to exceed $100,000,000, as may be necessary to carry out the provisions of this section.

TIMBER SALE CONTRACTS

SEC. 242. (a) Where an existing timber sale contract between the Secretary of Agriculture or the Secretary of the Interior and a timber purchaser does not provide relief from major physical change not due to negligence of the purchaser prior to approval of construction of any section of specified road or of any other specified development facility and, as a result of a major disaster, a major physical change results in additional construction work in connection with such road or facility by such purchaser with an estimated cost, as determined by the appropriate Secretary, (1) of more than $1,000 for sales under one million board feet, (2) of more than $1 per thousand board feet for sales of one to three million board feet, or (3) of more than $3,000 for sales over three million board feet, such increased construction cost shall be borne by the United States.

(b) If the Secretary determines that damages are so great that restoration, reconstruction, or construction is not practical under the cost-sharing arrangement authorized by subsection (a) of this section, the Secretary may allow cancellation of the contract notwithstanding contrary provisions therein.

(c) The Secretary of Agriculture is authorized to reduce to seven days the minimum period of advance public notice required by the first section of the Act of June 4, 1897 (16 U.S.C. 476), in connection with the sale of timber from national forests, whenever the Secretary determines that (1) the sale of such timber will assist in the construction of any area of a State damaged by a major disaster, (2) the sale of such timber will assist in sustaining the economy of such area, or (3) the sale of such timber is necessary to salvage the value of timber damaged in such major disaster or to protect undamaged timber.

(d) The President, when he determines it to be in the public interest, and acting through the Director of Emergency Preparedness, is authorized to make grants to any State or local government for the purpose of removing from privately owned lands timber damaged as a result of a major disaster, and such State or local government is authorized upon application, to make payments out of such grants to any person for reimbursement of expenses actually incurred by such person in the removal of damaged timber, not to exceed the amount that such expenses exceed the salvage value of such timber.

PUBLIC LAND ENTRYMEN

SEC. 243. The Secretary of the Interior is authorized to give any public land entryman such additional time in which to comply with any requirement of law in connection with any public land entry for lands affected by a major disaster as the Secretary finds appropriate because of interference with the entryman's ability to comply with such requirement as a result of such major disaster.

MINIMUM STANDARDS FOR RESIDENTIAL STRUCTURE RESTORATION

SEC. 244. (a) No loan or grant made by any Federal agency, or by any relief organization operating under the supervision of the Director, for the repair, restoration, reconstruction, or replacement of any residential structure located in a major disaster area shall be made unless such structure will be repaired, restored, reconstructed, or replaced in accordance with such minimum standards of safety, decency, and sanitation as the Secretary of Housing and Urban Development may prescribe by regulation for such purpose, and in conformity with applicable building codes and specifications.

(b) In order to carry out the provisions of this section, the Secretary of Housing and Urban Development is authorized—

(1) to consult with such other officials in the Federal, State, and local governments as he deems necessary, in order that regulations prescribed under this section shall—

(A) carry out the purpose of this section; and

(B) have the necessary flexibility to be consistent with requirements of other building regulations, codes, and program requirements applicable; and

(2) to promulgate such regulations as may be necessary.

PART D—RESTORATION OF PUBLIC FACILITIES

FEDERAL FACILITIES

SEC. 251. The President may authorize any Federal agency to repair, reconstruct, restore, or replace any facility owned by the United States and under the jurisdiction of such agency which is damaged or destroyed by any major disaster if he determines that such repair, reconstruction, restoration, or replacement is of such importance and urgency that it cannot reasonably be deferred pending the enactment of specific authorizing legislation or the making of an appropriation for such purposes. In order to carry out the provisions of this section, such repair, reconstruction, restoration, or replacement may be begun notwithstanding a lack or an insufficiency of funds appropriated for such purpose, where such lack or insufficiency can be remedied by the transfer, in accordance with law, of funds appropriated for another purpose.

STATE AND LOCAL GOVERNMENT FACILITIES

SEC. 252. (a) The President is authorized to make contributions to State or local governments to repair, restore, reconstruct, or replace public facilities belonging to such State or local governments which were damaged or destroyed by a major disaster, except that the Federal contribution therefor shall not exceed 50 per centum of the net cost of restoring any such facility to its capacity prior to such disaster and in conformity with applicable codes and specifications.

(b) In the case of any such public facilities which were in the process of construction when damaged or destroyed by a major disaster, the Federal contribution shall not exceed 50 per centum of the net costs of restoring such facilities substantially to their prior to such disaster condition and of completing construction not performed prior to the major disaster to the extent the increase of such cost over the original construction cost is attributable to changed conditions resulting from a major disaster.

(c) For the purposes of this section "public facility" includes any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility, any non-Federal-aid street, road, or highway, and any other essential public facility.

PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE

SEC. 253. In the processing of applications for assistance, priority and immediate consideration may be given, during such period, not to exceed six months, as the President shall prescribe by proclamation, to applications from public bodies situated in major disaster areas, under the following Acts:

(1) title II of the Housing Amendments of 1955, or any other Act providing assistance for repair, construction, or extension of public facilities;

(2) the United States Housing Act of 1937 for the provision of low-rent housing;

(3) section 702 of the Housing Act of 1954 for assistance in public works planning;

(4) section 702 of the Housing and Urban Development Act of 1965 providing for grants for public facilities; or

(5) section 306 of the Consolidated Farmers Home Administration Act.

RELOCATION ASSISTANCE

SEC. 254. Notwithstanding any other provision of law or regulation promulgated thereunder, no person otherwise eligible for relocation assistance payments authorized under section 114 of the Housing Act of 1949 shall be denied such eligibility as a result of a major disaster as determined by the President.

TITLE III—MISCELLANEOUS

TECHNICAL AMENDMENTS

SEC. 301. (a) Section 701(a)(3)(B)(ii) of the Housing Act of 1954 (40 U.S.C. 461(a)(3)(B)(ii) is amended to read as follows: "(ii) have suffered substantial damage as a result of a major disaster as determined by the President pursuant to the Disaster Assistance Act of 1970".

(b) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out of the last proviso "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30,

1950)" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(c) Section 203(h) of the National Housing Act (12 U.S.C. 1709(h)) is amended by striking out "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(d) Section 221(f) of the National Housing Act (12 U.S.C. 17151(f)) is amended by striking out of the last paragraph "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(e) Section 7(a)(1)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress, as amended; 20 U.S.C. 241–1(a)(1)(A)), is amended by striking out "pursuant to section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855(a))" and inserting in lieu thereof "pursuant to section 102(1) of the Disaster Assistance Act of 1970".

(f) Section 16(a) of the Act of September 23, 1950 (79 Stat. 1158; 20 U.S.C. 646(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(g) Section 408(a) of the Higher Education Facilities Act of 1963 (20 U.S.C. 758(a)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(h) Section 165(h)(2) of the Internal Revenue Code of 1954, relating to disaster losses (26 U.S.C. 165(h)(2)) is amended to read as follows:

"(2) occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Disaster Assistance Act of 1970,".

(i) Section 506(a) of the Internal Revenue Code of 1954 (26 U.S.C. 506(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(j) Section 5708(a) of the Internal Revenue Code of 1954 (26 U.S.C. 5708(a)), relating to losses caused by disaster, is amended by striking out "the Act of September 30, 1950 (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Assistance Act of 1970".

(k) Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681), is amended by striking out of the last sentence "section 2 of the Act of September 30, 1950 (64 Stat. 1109), as amended (42 U.S.C. 1855a)" and inserting in lieu thereof "section 102(1) of the Disaster Assistance Act of 1970".

(l) Whenever reference is made in any provision of law (other than this Act), regulation, rule, record, or document of the United States to the Act of September 30, 1950 (64 Stat. 1109), or any provision of such Act, such reference shall be deemed to be a reference to the Disaster Assistance Act of 1970 or to the appropriate provision of the Disaster Assistance Act of 1970 unless no such provision is included therein.

REPEAL OF EXISTING LAW

SEC. 302. The following Acts are hereby repealed:

(1) the Act of September 30, 1950 (64 Stat. 1109);

(2) the Disaster Relief Act of 1966, except section 7 (80 Stat. 1316); and

(3) the Disaster Relief Act of 1969 (83 Stat. 125).

AUTHORIZATION OF APPROPRIATIONS

SEC. 303. Except as provided otherwise in this Act, there are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

EFFECTIVE DATE

SEC. 304. This Act shall take effect immediately upon its enactment, except that sections 226(c), 237, 241, 252(a), and 254 shall take effect as of August 1, 1969, and sections 231, 232, and 233 shall take effect as of April 1, 1970.

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

Mr. DOLE. 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:

A bill to revise and expand Federal programs for relief from the effects of major disasters, and for other purposes.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, following the disposition of the reading of the Journal, there be a period for the transaction of routine morning business with statements therein limited to 3 minutes.

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

ORDER FOR SENATE JOINT RESOLUTION 1 TO BE LAID BEFORE THE SENATE TOMORROW

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that tomorrow, at the close of the period for the transaction of routine morning business the unfinished business, Senate Joint Resolution 1 be laid before the Senate.

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

ELIMINATION OF REDUCTION IN THE ANNUITIES OF EMPLOYEES OR MEMBERS WHO ELECTED REDUCED ANNUITIES

Mr. BYRD of West Virginia. Mr. President, at this time, merely for making it the pending business for tomorrow evening, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 1103, S. 437, with the understanding there not be any action thereon this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The ASSISTANT LEGISLATIVE CLERK. A bill (S. 437) to amend chapter 83, title 5, United States Code, to eliminate the reduction in the annuities of employees or Members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

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

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that not later than 5 p.m. tomorrow the business which will be laid before the Senate at the close of the period for the transaction of routine morning business tomorrow morning be laid aside and at not later than 5 p.m. the Senate proceed to the consideration of Calendar No. 1103, S. 437.

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

ADJOURNMENT TO 10 A.M. TOMORROW

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10 a.m. tomorrow.

The motion was agreed to; and (at 8 o'clock and 22 minutes p.m.) the Senate adjourned until tomorrow, Thursday, September 10, 1970, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate September 3, 1970, under authority of the order of the Senate of September 1, 1970:

U.S. CIRCUIT COURT

Max Rosenn, of Pennsylvania, to be a U.S. circuit judge for the third circuit vice David Stahl, deceased.

U.S. DISTRICT COURTS

Cornelia G. Kennedy, of Michigan, to be U.S. district judge for the eastern district of Michigan, vice Thaddeus M. Machrowicz, deceased.

Edwin L. Mechem, of New Mexico, to be a U.S. district judge for the district of New Mexico vice a new position created under Public Law 91–272 approved June 2, 1970.

DEPARTMENT OF JUSTICE

Irving W. Humphreys, of West Virginia, to be U.S. marshal for the southern district of West Virginia for the term of 4 years, vice Cornelius J. McQuade, retired.

BOARD OF PAROLE

Paula A. Tennant, of California, to be a member of the Board of Parole for the term expiring September 30, 1976, vice Charlotte P. Reese, term expiring.

Executive nominations received by the Senate September 9, 1970:

DEPARTMENT OF DEFENSE

Richard J. Borda, of California, to be an Assistant Secretary of the Air Force.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Wilmot R. Hastings, of Massachusetts, to be General Counsel of the Department of Health, Education, and Welfare, vice Robert C. Mardian.